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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
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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**ATTENTION:** For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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

## Rules Going Into Effect Today

### AGRICULTURE DEPARTMENT

#### Agricultural Marketing Service—

Pears grown in Oregon, Washington, and California; extension of effective period for minimum grade, quality, and size requirements; comments by 9-9-77 41644; 8-18-77

Dried prunes from California; undersized regulations, salable and reserve percentages for 1977-78 crop year; comments by 9-9-77. 41644; 8-18-77

ITC—Economic effects of import regulations, conduct of investigations. 40426; 8-10-77

Unfair practices in import trade; investigations 40428; 8-10-77

## Rules Going Into Effect Saturday, September 10, 1977

CAB—Transit flights, scheduled international air service operations 36815; 7-18-77

DOT/CG—Anchorage regulations: Bailey Island, Me., St. Simons Island, Ga.; San Diego Harbor, Calif. (3 documents). 40693-4; 8-11-77

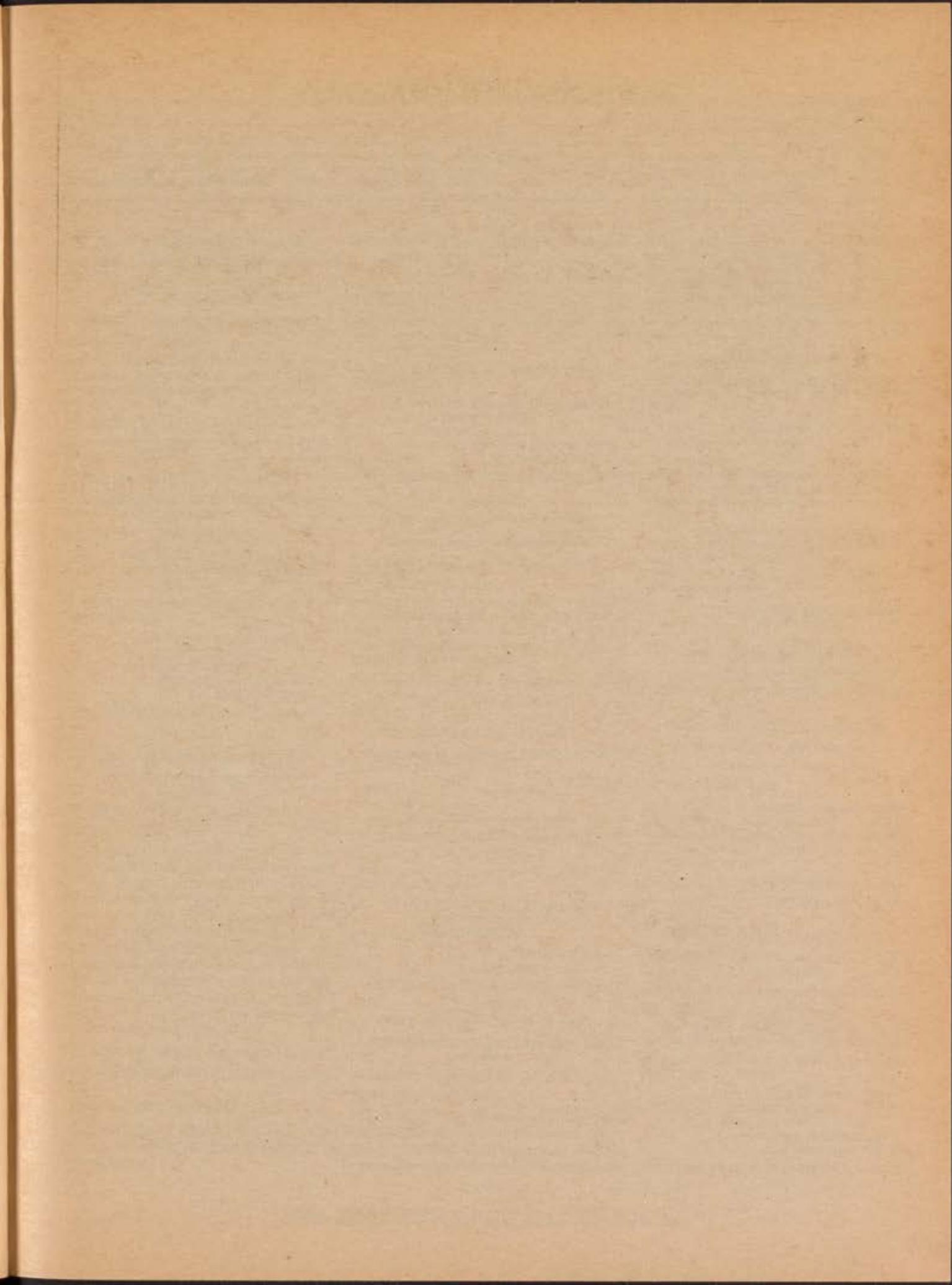
FEA—Dishwashers; energy efficiency; test procedures 39964; 8-8-77

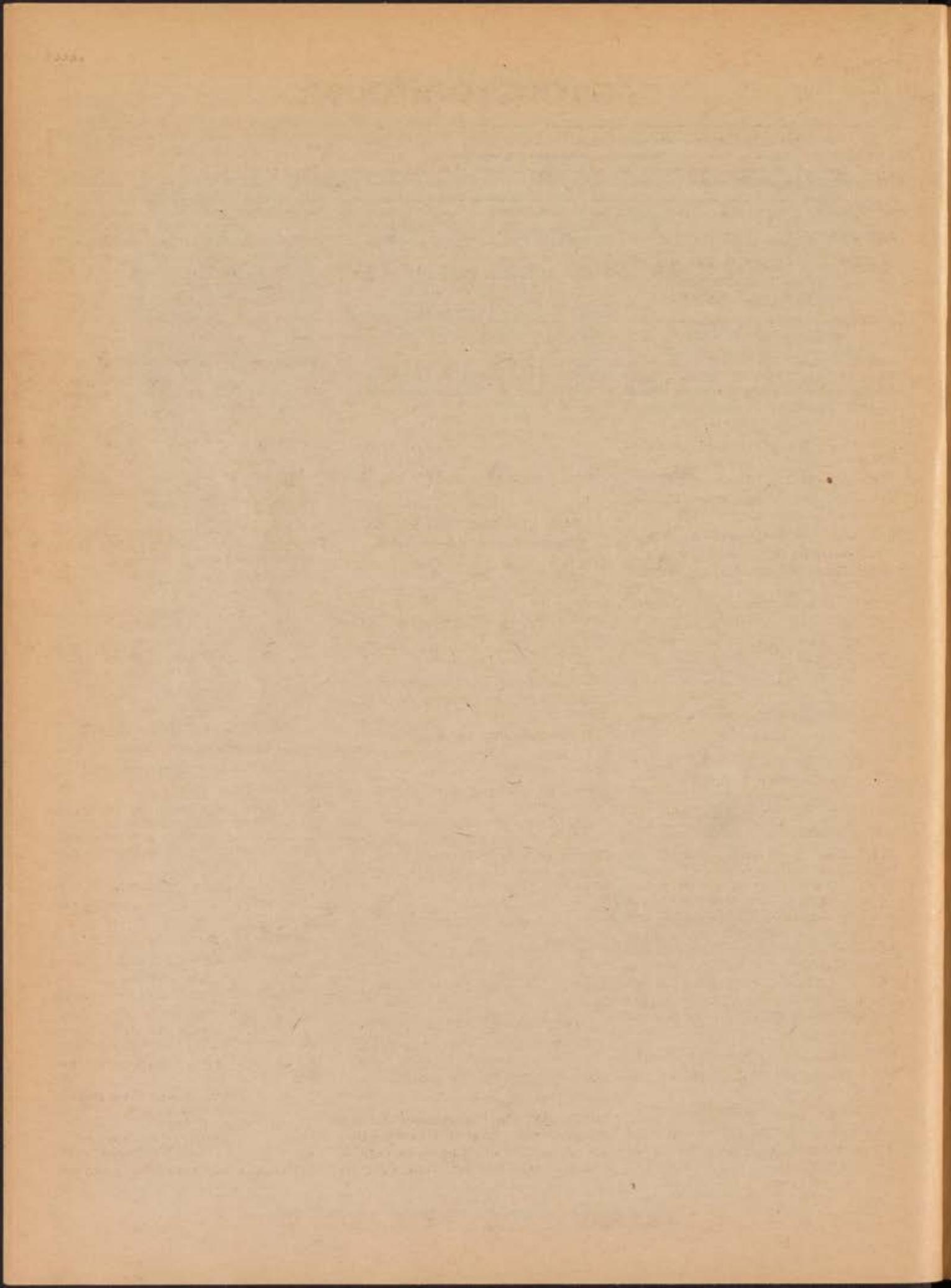
Interior/FWS—Holla Bend National Wildlife Refuge, Ark., open to hunting of mourning doves 39391; 8-4-77

Hunting regulations; Ravalli National Wildlife Refuge, Montana 32552 6-27-77

## Rules Going Into Effect Sunday, September 11, 1977

CAB—Charters by air freight forwarders (4 documents) ..... 36813-14; 7-18-77





# rules and regulations

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

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

## Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

### Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Director, Executive Secretariat, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(a) (35) is added as set out below:

### § 213.3314 Department of Commerce.

- (a) *Office of the Secretary.* \* \* \*  
(35) Director, Executive Secretariat.

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

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

[FR Doc.77-26242 Filed 9-8-77; 8:45 am]

### PART 213—EXCEPTED SERVICE Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) revokes under the automatic revocation system because they have been vacant for more than 60 days four positions of Special Assistant to the Chairman, and the positions of Secretary to each of two Special Assistants to the Chairman; and (2) excepts under Schedule C because they are confidential in nature the following positions: one position of Special Assistant to the Chair and one position of Secretary to the Chair.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3377 (a) and (c) are amended and (d) is revoked as set out below:

### § 213.3377 Equal Employment Opportunity Commission.

- (a) One Special Assistant to the Chair.

(c) Two Secretaries to the Chair and one Private Secretary and Confidential Assistant to the Chair.

- (d) (Revoked).

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

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

[FR Doc.77-26039 Filed 9-8-77; 8:45 am]

### PART 213—EXCEPTED SERVICE General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Director of Administration is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3337(a) (22) is added as set out below:

### § 213.3337 General Services Administration.

- (a) *Office of the Administrator.* \* \* \*

(22) One Confidential Assistant to the Director of Administration.

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

UNITED STATES CIVIL SERVICE COMMISSION,  
JAMES C. SPRY,

*Executive Assistant to the Commissioners.*

[FR Doc.77-26482 Filed 9-8-77; 8:45 am]

### PART 213—EXCEPTED SERVICE Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Confidential Assistant to the Commis-

sioner of Education, and one position of Staff Director, Federal Interagency Committee on the Integration of Human Service Delivery Systems.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR § 213.3316(c) (3) is amended and (c) (15) is added as set out below:

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

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

(3) Two Confidential Assistants to the Commissioner of Education.

(15) Staff Director, Federal Interagency Committee on the Integration of Human Service Delivery Systems.

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.77-26038 Filed 9-8-77; 8:45 am]

### PART 213—EXCEPTED SERVICE Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Two positions of Special Assistant to the Assistant Secretary (Legislative Affairs) are reestablished under Schedule C because they are confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3305(a) (51) is amended as set out below:

### § 213.3305 Department of the Treasury.

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

(51) Three Special Assistants to the Assistant Secretary (Legislative Affairs).

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.77-26040 Filed 9-8-77; 8:45 am]

## Title 9—Animals and Animal Products

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

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

## PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

## Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release portions of Honolulu County in Hawaii from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined. No areas remain under quarantine in the State of Hawaii.

EFFECTIVE DATE: September 2, 1977.  
FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Md. 20782 (301-436-8073).

SUPPLEMENTARY INFORMATION: This amendment excludes portions of Honolulu County in Hawaii from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

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

In § 82.3, paragraph (a) (1) relating to the State of Hawaii is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 29464, 29477; 38 FR 19141.)

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

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

Done at Washington, D.C., this 2d day of September 1977.

NOTE.—The Animal and Plant Health Inspection 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.

J. K. ATWELL,  
Acting Deputy Administrator,  
Veterinary Services.

[FR Doc.77-26418 Filed 9-8-77;8:45 am]

## SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS  
Miscellaneous Amendments

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

ACTION: Final rule.

SUMMARY: This amendment will clarify the second stage testing provisions for potency used in evaluating Encephalomyelitis Vaccine. The second stage test requirement for a product when one fraction thereof is found to be acceptable by the first stage test is not clear. This amendment clarifies this requirement.

EFFECTIVE DATE: This amendment becomes effective September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

## SUPPLEMENTARY INFORMATION:

The test used for evaluating Encephalomyelitis Vaccine for potency, which is found in § 113.127(b), is a two stage test. The first stage is used for all fractions of the product. The second stage is applicable only to fractions of a product which are found unacceptable by the first stage test, but are not rejected as being unsatisfactory.

The current regulations are unclear in this respect. Section 113.127(b)(4) indicates that if one or less of the vaccine serum samples meets the titer requirements for one fraction in the first stage, such fraction need not be retested. However, this is not what was intended, as shown in the table in subpart (6) of that section. What was intended was that when a fraction is found acceptable by first stage testing, i.e., if there is one or less failure, such fraction need not be retested. Therefore, the purpose of this amendment is to eliminate any confusion which might be caused by the present wording.

Each word in the heading of § 113.127 shall be capitalized.

Section 113.127 is amended by revising paragraph (b)(4) to read:

§ 113.127 Encephalomyelitis vaccine, Eastern and Western, killed virus.

(b) \*\*\*

(4) If two or three of the vaccine serum samples show a titer of less than 1:4 for the Eastern type fraction or less than 1:32 for the Western type fraction,

or both, the second stage may be used; except, that if a fraction is found to be acceptable by the first stage test, such fraction need not be retested. Otherwise, the second stage shall be conducted in a manner identical to the first stage.

(21 U.S.C. 151 and 154; 37 FR 29477, 29464; 38 FR 19141.)

This amendment makes administrative changes to clarify the second stage test provisions in the potency test without making substantive changes in the regulations. In order for this amendment to be of maximum benefit, it must be made effective immediately.

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

The foregoing amendment shall become effective upon issuance.

Done at Washington, D.C., this 2nd day of September, 1977.

NOTE.—The Animal and Plant Health Inspection 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.

J. K. ATWELL,  
Acting Deputy Administrator,  
Veterinary Services.

[FR Doc.77-26267 Filed 9-8-77;8:45 am]

## Title 10—Energy

## CHAPTER II—FEDERAL ENERGY ADMINISTRATION

## PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Resumption of Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration ("FEA") by this action issues Crude Oil Price Schedule No. 8, which resumes in September 1977, crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). These price increases were discontinued because during 1976 and part of 1977 actual weighted average prices for domestic crude oil exceeded the statutory maximum weighted average first sale ("composite") price.

Pursuant to this action, FEA will, beginning in September 1977, apply the inflation adjustment to the projected August lower tier price (approximately \$5.17 per barrel), and will begin to restore over a 3 month period the upper tier price to a level that represents the \$11.28 per barrel price originally intended to be achieved for upper tier

crude oil in February 1976 by the Energy Policy and Conservation Act "EPCA" crude oil pricing policy, plus the \$27 per barrel increase in upper tier prices that was authorized for the months of March through June 1976. By November 1977, as a result of this action, lower tier prices will be approximately \$5.26 per barrel and upper tier prices will be approximately \$11.75 per barrel.

Thereafter, lower tier and upper tier prices will be allowed to rise at the rate not in excess of the rate of inflation, as was proposed in the National Energy Plan issued by the President on April 20, 1977.

**EFFECTIVE DATE:** September 1, 1977.  
**FOR FURTHER INFORMATION CONTACT:**

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Ave. NW, Washington, D.C. 20461 (202-566-9161).

Ed Vilade (Media Relations), 12th and Pennsylvania Ave. NW, Room 3104, Washington, D.C. 20461 (202-566-9833).

William D. Carson (Office of Regulatory Programs), 2000 M St. NW, Room 2310, Washington, D.C. 20461 (202-254-7477).

Everard A. Marseglia, Jr. (Office of General Counsel), 12th and Pennsylvania Ave. NW, Room 5140, Washington, D.C. 20461 (202-566-9587).

**SUPPLEMENTARY INFORMATION:**

**A. Background.**

**B. The Basis For This Action.**

**C. Crude Oil Price Schedule No. 8.**

**A. Background.**—Under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA," Pub. L. 93-159), Congress provided FEA with flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed \$7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976.

Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward by FEA at a rate not to exceed 10 percent annually.

In specifying a composite price of \$7.66 per barrel for all domestic crude oil in February 1976, Congress assumed that the existing ceiling price on domestic old crude oil (lower tier) would be continued and that the average price of old crude oil was \$5.25 per barrel. The \$5.25 per barrel estimate was derived originally by the Cost of Living Council ("CLC") as the average first sale price of controlled domestic crude oil in December 1973. FEA was not required, nor did it have any regulatory need, to monitor actual first sale prices of controlled domestic crude oil until the advent of EPCA. Inasmuch as old crude oil prices

had remained frozen from December 1973, the \$5.25 figure was thought to be a reasonable estimate of lower tier crude oil prices.

In specifying the \$7.66 per barrel composite price, the Congress also assumed that "new," "released," and "stripper well" crude oil (which were not then subject to ceiling price limitations), would not have to be rolled back from the average first sale price of uncontrolled domestic crude oil in January 1975, which was \$11.28 per barrel. The January 1975 price was based on the most recent price data available which was free from the influence of (1) the 1975 supplemental import fees on crude oil, and (2) the October 1975 price increase by the Oil Producing and Exporting Countries which subsequently affected domestic crude oil prices.

It was also estimated that old crude oil constituted sixty percent of total domestic crude oil. The \$7.66 per barrel composite price figure was therefore calculated as follows:

$$(6) (\$5.25) + (4) (\$11.28) = \$7.66.$$

(See generally S. Rept. No. 94-516, 94th Cong., 1st Sess. 187-191 (1975).)

Under FEA price regulations adopted to implement the pricing policy that included the statutory composite price restrictions, domestic crude oil is classified either as lower tier (which currently accounts for about 50 percent of total domestic production), upper tier (which currently accounts for about 36 percent of total domestic production) and crude oil produced from stripper well properties (which currently accounts for about 14 percent of total domestic production).

Stripper well property crude oil, which is production from properties that have declined to a level of 10 barrels or less per well per day for a proceeding consecutive 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of determining compliance with the statutory composite price limitation, however, stripper well property crude oil is given by statutory formula an imputed value which approximates the average upper tier price. (Section 121 of the Energy Conservation and Production Act, "ECPA," Pub. L. 94-385.)

Upper tier crude oil generally includes production from properties which first began producing crude oil after 1972 (except those which qualify as stripper well properties or which produce crude oil that is otherwise exempt from first sale price controls), plus incremental production from older properties which exceeds a certain "base production control level." The upper tier price (an average of \$11.64 per barrel at the end of 1976) is generally designed to stimulate increased production from older properties and to encourage further exploration and development of domestic crude oil resources. The lower tier price, which averaged about \$5.17 per barrel nationally at the end of 1976, applies to all domestic production which is not exempt

or which does not qualify as upper tier crude oil.

FEA adopted regulations to implement the composite price limitation of EPCA that were predicated on the same estimates and assumptions that had been used by the Congress. Pursuant to those regulations, which became effective February 1, 1976, comprehensive data on actual first sale prices were obtained for the first time. Those data revealed that the average first sale price for lower tier crude oil was, in fact, \$5.05 per barrel, rather than the estimated \$5.25 per barrel; that lower tier crude oil constituted approximately 56.1 percent of domestic production rather than the estimated 60 percent; and that the upper tier ceiling price (the September 30, 1975 posted price, less \$1.32 per barrel) had resulted, in February 1976, in average upper tier prices of \$11.48 per barrel rather than the intended \$11.28 per barrel. These factors, among others, led FEA to discontinue price increases in July 1976.

Effective July 1, 1976, FEA halted further monthly increases in crude oil price ceilings and continued them at their June 1976 levels in order to compensate for actual composite prices in excess of adjusted statutory composite price levels. FEA took further corrective action to achieve compliance with statutory composite price restrictions by reducing upper tier price ceilings by 20 cents per barrel effective January 1, 1977, and by an additional 45 cents per barrel effective March 1, 1977. These actions were projected to eliminate all excess crude oil receipts by June 30, 1977 (see 42 FR 13013, March 8, 1977). (Although the ceiling prices for lower tier crude oil had been frozen since June 1976, and the ceiling prices for upper tier crude oil had been frozen—and subsequently rolled back—since June 1976, ceiling prices for lower and upper tier crude oil are determined on a field-by-field basis. As a result, the average actual prices for lower tier and upper tier crude oil vary from month to month as a function of the mix of types of crude oil selling at varying ceiling prices from field to field.)

On March 15, 1977, FEA submitted Energy Action No. 11 to the Congress, pursuant to section 8(f) of the EPAA, to continue in effect that portion of the 10 percent annual increase in the statutory composite price relating to production incentives. That action, having undergone legislative review without disapproval by either house of Congress, permits the statutory composite price to continue to increase at an annual rate of 10 percent.

In congressional hearings relating to Energy Action No. 11, FEA stated that the 10 percent annual adjustment in the statutory composite price was anticipated to be entirely or almost entirely used to reflect the impact of inflation on the ceiling prices for lower and upper tier crude oil (anticipated at between 5.5 and 6.5 percent annually) and to account for the automatic increase in the actual composite price attributable to the continuing decline in the percentage of lower tier crude oil (resulting in an increase in

the actual composite price of approximately 3.0 to 3.6 percent annually). Accordingly, FEA stated that it intended in the future to adjust lower tier and upper tier prices by not more than the amount necessary to reflect the impact of inflation.

On August 11, 1977, FEA issued a Notice of Proposed Rulemaking and Public Hearing (42 FR 41396, August 16, 1977) to consider a proposal to specify the price levels for lower tier and upper tier crude oil to which such future adjustments should be applied and to implement the provision of the National Energy Plan that calls for allowing lower tier and upper tier ceiling prices to rise at not more than the rate of inflation.

Pursuant to Section 8(d) of the EPAA, the impact of inflation is measured for purposes of adjusting the composite price by using the "adjusted GNP deflator." The Act defines the term "adjusted GNP deflator" to mean:

... the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

For purposes of this rulemaking proceeding, the inflation adjustment for the months of September, October, and November 1977 was computed at an annual rate of 5.5 percent. This was the most recent first revision of the GNP deflator at the time, which was published by the Department of Commerce in late June 1977. As FEA stated in the August 11 Notice, actual adjustments to crude oil price ceilings for the months of September through November 1977, pursuant to the regulations adopted in this rulemaking, would be based on the first revision of the GNP deflator published on August 20, 1977, which is now known to be 7.1 percent. Beginning in December the first revision of the GNP deflator published on or about November 20, 1977 will be used to adjust ceiling prices for the next three months to reflect the rate of inflation, and so forth.

**B. The Basis For This Action.**—As indicated above, monthly increases in both lower tier and upper tier crude oil price ceilings were deferred and upper tier crude oil price ceilings were reduced in order to compensate for actual composite price levels in excess of statutory composite price limits. This elimination of excess receipts is projected to be completed by June 30, 1977—final data for a particular month are not available to FEA until the end of the third month following that month—and resumption of monthly price adjustments can therefore be resumed September 1, 1977. As FEA indicated in the August 11 Notice, this more conservative pricing policy is intended to further the EPAA goal of

providing a more stable and predictable basis for future pricing actions by decreasing the potential for future price freezes or rollbacks.

This action applies such inflation adjustments prospectively to existing lower tier prices and to upper tier prices adjusted to reflect (1) the fact that actual upper tier prices when the upper tier ceiling price was first imposed in February 1976 were higher than the intended average of \$11.28 per barrel, and (2) the fact that upper tier prices have been reduced by a total of \$.65 per barrel in recent months. Because the restoration of upper tier prices will represent a price increase of some significance, it will, as proposed, be phased in over a 3 month period so as to avoid creating any substantial incentive to withhold production in anticipation of a price increase.

FEA has concluded, as proposed, that it would not be appropriate to restore lower tier and upper tier price levels to the real dollar equivalent of their February 1976 price levels because the overall economic impact of such an action would not, in all likelihood, be counterbalanced by any measurable production response. Domestic crude oil production has been subject to frozen or reduced price levels for more than a year without any measurable effect on production. (FEA has granted price relief on a case-by-case basis in all instances in which those price levels have resulted in a demonstrable threat to continued production.)

Accordingly, FEA has concluded that restoration of crude oil ceiling prices to their February 1976 real dollar equivalent would constitute essentially a windfall to producers, in that it would constitute a form of payment for production that has already taken place under economically advantageous circumstances. In this regard, however, FEA has also concluded that equitable considerations favor the restoration of upper tier prices to a level that recognizes the initial pricing objectives of the EPAA crude oil pricing policy and the fact that the upper tier price has, in fact, been rolled back to compensate for prices in excess of the statutory composite price.

This result is not inconsistent with Energy Action No. 11, which was submitted to Congress on March 15, 1977, the purpose of which was to provide for a continuation of the adjustment to the statutory composite price as a production incentive. In the absence of that Energy Action, no adjustment as a production incentive could be given any effect beyond March 15, 1977, and only the adjustment to take into account the impact of inflation could thereafter have been applied. In transmitting Energy Action No. 11 to Congress, FEA stated:

In essence, continuation of the adjustment as a production incentive could permit lower tier and upper tier ceiling prices to be restored to and maintained in real dollars at the level that existed in February, 1976 for lower tier crude oil (\$5.05 per barrel), and at the level that was intended in February, 1976 for upper tier crude oil (\$11.28 per barrel).

Discontinuation of the adjustment as a production incentive would mean, on the other hand, that the legal composite price could be increased at not more than the rate of inflation. Because the projected rate of decline in production of lower tier crude oil results in an increase in the actual composite price of approximately 3 to 3.6 percent annually, a projected inflation rate of 5.5 percent would result in a maximum rate of increase in lower tier and upper tier ceiling prices of approximately only 1.9 to 2.5 percent per year.

Discontinuation of the adjustment as a production incentive would, therefore, effectively prevent maintenance of February, 1976 ceiling price levels for domestic crude oil in real dollars. It would therefore, tend to have a dampening effect on domestic production, particularly in view of the fact that there are indications that the cost of producing crude oil is increasing at a faster rate than the rate of inflation as measured by the GNP deflator. (Emphasis added.)

Comments submitted in response to the August 11 Notice, indicated producers' misperception that this language in Energy Action No. 11 indicated FEA's intention to resume adjustments to lower tier and upper tier ceiling prices based upon February 1976 ceiling price levels for domestic crude oil in real dollars. Of particular concern to those submitting comments was the statement that failure to maintain these ceiling price levels in real dollars would

tend to have a dampening effect on domestic production, particularly in view of the fact that there are indications that the cost of producing crude oil is increasing at a rate faster than the rate of inflation as measured by the GNP deflator.

Initially, it should be stressed that Energy Action No. 11 was submitted to Congress to provide for continuation of the adjustment as a production incentive provided for in Section 8 of the EPAA. In establishing the need to continue the production incentive adjustment, FEA was concerned that failure to do so might lead to the result that FEA would be unable to maintain February 1976 ceiling prices in real dollars for existing production i.e., production currently subject to ceiling price controls; lower tier and upper tier crude oil). To avoid the possible dampening effects on such production that might have ensued as a result of the extended freeze on ceiling prices for lower and upper tier crude oil and the rollback of ceiling prices for upper tier crude oil, FEA sought from Congress the additional flexibility, if needed, under the full 10 percent composite price adjustment to offset any significant declines in domestic production during the freeze and rollback period and to guard against any subsequent declines in flowing production after the freeze period was ended, due to impacts of inflation in excess of the GNP deflator on crude oil subject to current controls.

Accordingly, it was inappropriate to draw the conclusion from statements made in the Energy Action that FEA in fact would, or intended to, resume adjustments to lower and upper tier ceiling prices based on February 1976 real dollar equivalents. Rather, FEA indicated only that approval of the Energy Action would provide FEA with sufficient flexi-

bility so that prices for currently controlled crude oil could be escalated to such levels if necessary, but indicated that in no event would currently controlled domestic production be escalated at a faster rate than necessary to provide for the impact of inflation. This is consistent with the policy of the National Energy Plan to allow lower and upper tier ceiling prices to rise at a rate not in excess of the rate of inflation.

With respect to the period during which lower and upper tier ceiling prices were frozen and upper tier ceiling prices were rolled back, as FEA indicated in the August 11 Notice, to restore ceiling prices to February 1976 real dollar equivalents—in effect to reimburse producers for production during that period under circumstances in which (a) production was economically favorable, or (b) where not economically favorable, individual producers were granted price relief on a case-by-case basis by the FEA Office of Exceptions and Appeals—would constitute a windfall to producers for a period during which there was no significant “dampening effect” on domestic production. With respect to future production of crude oil currently subject to price controls, Crude Oil Price Schedule No. 8 provides for adjustments, consistent with the National Energy Plan, to reflect the impact of inflation as measured by the GNP deflator.

Persons that submitted comments in this rulemaking argued that the absence of a “dampening effect” on production during the freeze and rollback period should not be considered in determining whether to restore ceiling price levels to their February 1976 real dollar equivalents because investment decisions made by producers in “reliance” on Energy Action No. 11 would not necessarily have resulted in a significant production response during the freeze period. However, this argument fails to persuade FEA that such ceiling price levels should be restored for two reasons.

First, as stated above, FEA does not believe that the statements made in connection with the Energy Action should have been construed as a commitment by FEA to take such action. More fundamentally, however, such long term investment actions would presumably have been taken in reliance on incentive prices for production such as newly discovered oil as set forth in the National Energy Plan, and would not necessarily have depended upon an assumption that ceiling price levels for crude oil subject to current controls would be restored to their February 1976 real dollar equivalents. Accordingly, as noted above, for FEA to

restore ceiling price levels to February 1976 real dollar equivalents would constitute a windfall to producers for production that occurred during the freeze period.

**C. Crude Oil Price Schedule No. 8.**—Under Crude Oil Price Schedule No. 8, effective September 1, 1977, the previous lower tier ceiling price (the May 15, 1973 posted price plus \$1.48 per barrel, resulting in an average first sale price of approximately \$5.17 per barrel), is adjusted for inflation beginning with September 1977.

Thus, the ceiling price for lower tier crude oil and the approximate average first sale price pursuant to that ceiling price in September, October, and November, is determined as follows:

Month	Ceiling price	Estimated average first sale price
August	May 15, 1973, highest posted field price plus \$1.48	\$5.17
September	May 15, 1973, highest posted field price plus \$1.51	5.20
October	May 15, 1973, highest posted field price plus \$1.54	5.23
November	May 15, 1973, highest posted field price plus \$1.58	5.26

The upper tier ceiling price is determined as follows: First, as noted above, the upper tier ceiling price is established by reference to September 30, 1975 highest posted field prices. When the ceiling price rule was first promulgated, FEA estimated the average of highest posted field prices on September 30, 1975 to be \$12.60 per barrel; hence the price rule provided for a subtraction of \$1.32 from that posted price for February 1976, with the intent of achieving an average price of \$11.28. Actual upper tier pricing data have varied from month to month (which results from changes in the volumes of the various grades and qualities of upper tier crude oil produced and sold each month).

For the months of June through December 1976, when upper tier prices were frozen at the September 30, 1976 posted prices less \$1.05 per barrel, actual average first sale prices ranged from \$11.60 to \$11.65 per barrel, averaging \$11.62 per barrel. These data therefore indicate that the September 30, 1975 reference postings average approximately \$12.67 per barrel (i.e., \$11.62 + \$1.05 = \$12.67), rather than the \$12.60 per barrel estimated by FEA when the upper tier price rule was first adopted.

Based on the foregoing actual pricing data, a February 1976 upper tier ceiling price of \$11.28 per barrel would best be approximated by a ceiling price of the September 30, 1975 posted price (aver-

aging \$12.67 per barrel), less \$1.39 per barrel. The adjustments to the upper tier ceiling price provided during March through June totalled \$.27 per barrel. Applying this \$.27 adjustment to the Congressionally intended February 1976 upper tier price of \$11.28 results in a price of \$11.55. The ceiling price for September that would be most likely to result in an average first sale price of \$11.55 per barrel is, therefore, the September 30, 1975 posted price (approximately \$12.67 per barrel), less \$1.12 per barrel.

As noted above, however, the restoration of the upper tier ceiling price will be phased in over a 3 month period. Application of the 7.1 percent annual rate of inflation to the “restored” upper tier price level of \$11.55 for September yields an average upper tier price of \$11.75 for November 1977.

FEA does not currently have final or preliminary data with respect to actual prices in August 1977. However, assuming that the September 30, 1975 posted price averages \$12.67 per barrel in August 1977, applying a \$1.70 reduction in that month pursuant to Schedule No. 7 of Monthly Price Adjustments (42 FR 38894, August 1, 1977) results in a projected average upper tier price of \$10.97 for August 1977 (\$12.67 less \$1.70).

In order to provide a smooth transition from the projected August 1977 average upper tier price of \$10.97, to the November 1977 target price of \$11.75, FEA will add to the projected August 1977 upper tier price \$.26 per barrel in September, October and November 1977.

Thus, the ceiling price for upper tier crude oil and the approximate average first sale price pursuant to that ceiling price in September, October, and November, is determined as follows:

Month	Ceiling price	Estimated average first sale price
August	Sept. 30, 1975, highest posted field price less \$1.70	\$10.97
September	Sept. 30, 1975, highest posted field price less \$1.44	11.23
October	Sept. 30, 1975, highest posted field price less \$1.18	11.49
November	Sept. 30, 1975, highest posted field price less \$.92	11.75

Beginning in December, the lower and upper tier ceiling price would be adjusted each month at not more than the rate of inflation as determined by the most recent first revision of the GNP deflator.

The following table summarizes on a monthly basis the projected cumulative excess receipts for the months February 1976 through November 1977.

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Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price <sup>1/</sup>	Cumulative excess receipts (millions)
1976						
February	56.12	\$5.05	\$11.48	\$7.66	\$7.87	\$ 49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	7.88	7.99	123
July	55.58	5.19	11.60	7.93	8.04	152
August	55.68	5.18	11.62	7.98	8.03	164
September	53.41	5.17	11.65	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	228
November	49.94	5.17	11.62	8.17	8.40	282
December	50.07	5.17	11.64	8.24	8.40	322
1977						
January	50.61	5.17	11.44	8.30	8.28	316
February	49.52	5.18	11.39	8.37	8.33	308
March	49.18	5.15	11.03	8.44	8.19	246
April	49.46	5.15	10.97	8.50	8.14	161
May <sup>2/</sup>	48.48	5.18	11.00	8.57	8.23	78
June <sup>3/</sup>	48.84	5.17	10.99	8.64	8.20	- 27
July <sup>3/</sup>	46.22	5.17	10.99	8.71	8.16	-169
August <sup>3/</sup>	44.35	5.17	10.97	8.78	8.13	-342
September <sup>3/</sup>	44.09	5.20	11.23	8.85	8.26	-494
October <sup>3/</sup>	43.84	5.23	11.49	8.92	8.39	-635
November <sup>3/</sup>	43.58	5.26	11.75	8.99	8.52	-755

<sup>1/</sup> Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with section 121 of the ECPA.

<sup>2/</sup> Preliminary.

<sup>3/</sup> Projected. Effects of Alaska North Slope (ANS) crude oil production, which commenced June 20, 1977, are included.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., September 1, 1977.

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

1. Section 212.77 is revised in paragraph (c) to read as follows:

§ 212.77 Adjustments to ceiling prices.

(c) Application of price adjustments.—(1) Price adjustment schedules issued pursuant to paragraph (b) of this section shall, beginning with prices for September 1977, adjust the lower tier and the upper tier ceiling prices by not more than the amount necessary to reflect the impact of inflation on the weighted average first sale price for each tier.

(2) Notwithstanding paragraph (c) (1) of this section, FEA may issue price adjustment schedules pursuant to paragraph (b) of this section to (A) discontinue or restrict price adjustments or require reductions in ceiling prices to the extent deemed necessary by the FEA to achieve compliance with the Act, or (B) restore, in part or in full, to the upper tier ceiling price an amount not in excess of any reductions in such ceiling prices for months prior to September 1977.

APPENDIX.—Schedule No. 8 of monthly price adjustments effective Sept. 1, 1977

Month	Lower tier, May 15, 1973, posted price (plus) <sup>1</sup>	Upper tier, Sept. 30, 1975, posted price (less) <sup>2</sup>
1976:		
February.....	1.35	1.32
March.....	1.38	1.25
April.....	1.41	1.18
May.....	1.45	1.11
June.....	1.48	1.05
July.....	1.48	1.05
August.....	1.48	1.05
September.....	1.48	1.05
October.....	1.48	1.05
November.....	1.48	1.95
December.....	1.48	1.05
1977:		
January.....	1.48	1.25
February.....	1.48	1.25
March.....	1.48	1.70
April.....	1.48	1.70
May.....	1.48	1.70
June.....	1.48	1.70
July.....	1.48	1.70
August.....	1.48	1.70
September.....	1.51	1.44
October.....	1.54	1.18
November.....	1.58	.92

<sup>1</sup> The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).  
<sup>2</sup> The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration on September 1, 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil pro-

duced and sold in the months of February 1976 through August 1977, as determined under 10 CFR 212.73, 212.74, and 212.77. Upper tier ceiling prices, which were reduced under Schedule No. 5 effective January 1, and further reduced effective March 1, 1977, are increased as indicated in this schedule. Also, lower tier ceiling prices, which were held at the ceiling price level for the month of June 1976, are increased as indicated in this schedule.

This schedule is effective only through November 30, 1977. Price ceilings for subsequent months will be provided by Schedule No. 9, to be issued on or about November 30, 1977. This schedule may, however, be superseded prior to November 30, 1977, by early issuance of Schedule No. 9 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc. 77-26221 Filed 9-6-77; 10:31 am]

Title 12—Banks and Banking  
CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0090; Reg. H and Reg. Y]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES  
Municipal Securities Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule requires State member banks, and their subsidiaries, departments, and divisions, that are municipal securities dealers to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. The Board believes that these requirements will facilitate compliance by those dealers with Municipal Securities Rulemaking Board rules concerning the qualification of municipal securities principals and municipal securities representatives.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2782).

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Board issued for comment in the FEDERAL REGISTER (42 FR 16821) proposed amendments to its Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225) to require State member banks and bank holding companies, and certain of their subsidiaries, departments, and divisions, that are municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a) (34) of

the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (34)) to file with the Board information about persons who are associated with them as municipal securities principals or municipal securities representatives. In conjunction with that proposal, the Board also proposed Form MSD-4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," and Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," for use in complying with the proposed amendments to Regulations H and Y.

Concurrent with the Board's proposal of amendments to Regulations H and Y, the Federal Deposit Insurance Corporation and the Comptroller of the Currency proposed similar regulations requiring the filing of proposed Forms MSD-4 and MSD-5. Proposed Form MSD-4 and proposed Form MSD-5 were drafted jointly by the Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency for use by municipal securities dealers subject to their regulation. After considering the comments submitted on the proposed amendments to Regulations H and Y and proposed Forms MSD-4 and MSD-5 and working with the Federal Deposit Insurance Corporation and the Comptroller of the Currency in drafting final Forms MSD-4 and MSD-5, the Board has adopted the amendment to Regulation H and forms substantially as proposed, but has determined not to adopt the proposed amendment to Regulation Y at this time.

The proposed amendment to Regulation Y would have established a record system for municipal securities principals and representatives associated with bank holding companies. The activities of bank holding companies are generally limited by the Bank Holding Company Act to those the Board determines to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not made such a determination concerning municipal securities dealer activities and accordingly, as a general matter, bank holding companies are not permitted to engage in such activities at this time. On October 19, 1976, the Board suspended for a period of time not to exceed twelve months a proposed regulation that would permit bank holding companies generally to engage in certain municipal securities activities. In the event the Board upon further consideration determines that municipal securities dealer activities should be permissible for bank holding companies, the Board may also at that time adopt the proposed amendment to Regulation Y with modifications similar to those the Board has made in the amendment to Regulation H.

As a result of the comments received, the following changes have been made in the amendment and forms:

<sup>1</sup> Forms MSD-4 and MSD-5 filed as part of the original document. See FR Doc. 77-26068 (part III of this issue).

1. The period during which municipal securities dealers must retain copies of forms or statements that they are required to file with the Board under the amendment to Regulation H is specified as until at least three years after the termination of the employment or other association with the dealer of the municipal securities principal or municipal securities representative to whom the form or statement relates. That retention requirement is parallel to the one imposed on municipal securities dealers under paragraph (e) of Municipal Securities Rulemaking Board Rule G-7.

2. The instructions to Forms MSD-4 and MSD-5 have been revised to require that only the original of Forms MSD-4 and MSD-5 be manually signed.

3. For purposes of Forms MSD-4, and MSD-5 and the instructions thereto, the term bank municipal securities dealer has been defined as a municipal securities dealer which is a bank or a subsidiary or a department or division of a bank.

4. Item 8 of proposed Form MSD-4 (Item 6 of final Form MSD-4) has been changed to indicate that qualification as both a municipal securities principal and municipal securities representative can be requested on a single Form MSD-4.

5. Item 9 of proposed Form MSD-4 (Item 7 of final Form MSD-4), which describes the functions to be performed by a municipal securities principal or municipal securities representative, has been expanded to reflect a change in Municipal Securities Rulemaking Board rules effected after Form MSD-4 was proposed for comment.

6. The "permitted to resign" and "voluntary" reasons for termination contained in Item 8 of proposed Form MSD-5 (Item 7 of final Form MSD-5) have been combined into a single "resigned" category. Further, municipal securities dealers are required to furnish full details about the reason for termination only if the termination is related to a violation or probable violation of securities or banking law.

7. Editorial changes have been made in Forms MSD-4 and MSD-5 and the instructions thereto for clarification purposes.

The Board considered but decided not to adopt a suggestion that Form MSD-4s, Form MSD-5s, and statements received pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G-7 be considered filed with the Board when mailed. Upon receipt of a Form MSD-4 or Form MSD-5, the Board will remit to the sender the acknowledgement found at the bottom of the form.

The Board also noted the concern expressed in several comments about the effect of Item 10 of proposed Form MSD-4 (Item 8 of final Form MSD-4) on the privacy of individuals. In completing Item 10 municipal securities dealers are required to confirm that they have made the inquiry of former employers of a municipal securities principal or municipal securities representative required under paragraph (d) of Municipal Securities Rulemaking Board Rule G-7. Since Item 10 reflects a Municipal Securities Rulemaking Board requirement, the Board decided not to alter Item 10 other than to renumber it as Item 8.

The Board prescribed Form MSD-4 for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G-7 which becomes effective on October 15, 1977. Printed copies of Forms MSD-4

and MSD-5 will be available from the Federal Reserve Banks and the Board of Governors of the Federal Reserve System on and after September 20, 1977. The amendment to Regulation H will become effective on October 31, 1977. In the proposed amendment to Regulation H the paragraph to be added was designated 12 CFR 208.8(h). As adopted, that paragraph has been redesignated 12 CFR 208.8(j).

1. Pursuant to sections 15B(c) (5), 17, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(5), 78q, and 78w) and section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)), the Board amends Regulation H (12 CFR Part 208) by adding a new paragraph (j) to § 208.8 as set forth below:

#### § 208.8 Banking practices.

(g) [Reserved]

(h) [Reserved]

(i) [Reserved]

(j) *State member banks, and subsidiaries, departments, and divisions thereof, which are municipal securities dealers.*

(1) For purposes of this paragraph, the terms herein have the meanings given them in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) and the rules of the Municipal Securities Rulemaking Board. The term Act shall mean the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(2) On and after October 31, 1977, a State member bank of the Federal Reserve System, or a subsidiary or a department or a division thereof, that is a municipal securities dealer shall not permit a person to be associated with it as a municipal securities principal or municipal securities representative unless it has filed with the Board an original and two copies of Form MSD-4, "Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," completed in accordance with the instructions contained therein, for that person. Form MSD-4 is prescribed by the Board for purposes of paragraph (b) of Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons."

(3) Whenever a municipal securities dealer receives a statement pursuant to paragraph (c) of Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons," from a person for whom it has filed a Form MSD-4 with the Board pursuant to subparagraph (2) of this paragraph, such dealer shall, within ten days thereafter, file three copies of that statement with the Board accompanied by an original and two copies of a transmittal letter which includes the name of the dealer and a reference to the material transmitted identifying the person involved and is signed by a municipal securities principal associated with the dealer.

(4) Within thirty days after the termination of the association of a municipal securities principal or municipal securities representative with a munic-

ipal securities dealer that has filed a Form MSD-4 with the Board for that person pursuant to subparagraph (2) of this paragraph, such dealer shall file an original and two copies of a notification of termination with the Board on Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," completed in accordance with instructions contained therein.

(5) A municipal securities dealer that files a Form MSD-4, Form MSD-5, or statement with the Board under this paragraph shall retain a copy of each such Form MSD-4, Form MSD-5, or statement until at least three years after the termination of the employment or other association with such dealer of the municipal securities principal or municipal securities representative to whom the form or statement relates.

(6) The date that the Board receives a Form MSD-4, Form MSD-5, or statement filed with the Board under this paragraph shall be the date of filing. Such a Form MSD-4, Form MSD-5, or statement which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD-4, Form MSD-5 or statement has been completed in accordance with the applicable requirements or that any information reported therein is true, current, complete, or not misleading. Every Form MSD-4, Form MSD-5, or statement filed with the Board under this paragraph shall constitute a filing with the Securities and Exchange Commission for purposes of section 17(c)(1) of the Act (15 U.S.C. 78q(c)(1)) and a "report," "application," or "document" within the meaning of section 32(a) of the Act (15 U.S.C. 78ff(a)).

(15 U.S.C. 78o-4(c)(5), 78q, 78w (12 U.S.C. 248(a)).)

By order of the Board of Governors,  
September 1, 1977.

THEODORE E. ALLISON,  
Secretary of the Board.

[FR Doc.77-26070 Filed 9-8-77; 8:45 am]

[Docket No. R-0110]

#### PART 265—RULES REGARDING DELEGATION OF AUTHORITY

##### Administration of Municipal Securities Rulemaking Board Rules

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has delegated certain of its functions in connection with the administration of Municipal Securities Rulemaking Board rules to the Director of the Division of Banking Supervision and Regulation. These delegations were made to expedite and facilitate the Board's administration of Municipal Securities Rulemaking Board rules.

**EFFECTIVE DATE:** September 1, 1977.  
**FOR FURTHER INFORMATION CONTACT:**

Robert S. Plotkin, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2782).

**SUPPLEMENTARY INFORMATION:**

The Board of Governors has amended its Rules Regarding Delegation of Authority (12 CFR Part 265) to authorize the Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) (i) to grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and municipal securities representatives under Municipal Securities Rulemaking Board Rule G-3, (ii) to grant or deny requests for a determination that a natural person or municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities principal or municipal securities representative or municipal securities dealer under Municipal Securities Rulemaking Board Rule G-4, and (iii) to approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G-8, in connection with the administration of Municipal Securities Rulemaking Board rules for municipal securities dealers for which the Board is the appropriate regulatory agency as defined in section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)).

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date, are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Section 265.2 is amended by adding a new subparagraph (24) to paragraph (c) as follows:

**§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.**

(c) The Director of the Division of Banking Supervision and Regulation (or, in the Director's absence, the Acting Director) is authorized:

(24) Pursuant to section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) (i) to grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and municipal securities representatives under Municipal Securities Rulemaking Board Rule G-3, (ii) to grant or deny requests for a determination that a natural person or municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities principal or municipal securities representative or municipal securities dealer under Mu-

nicipal Securities Rulemaking Board Rule G-4, and (iii) to approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G-8, in connection with the administration of Municipal Securities Rulemaking Board rules for municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)). (15 U.S.C. 78w and 12 U.S.C. 248.)

By order of the Board of Governors, September 1, 1977.

THEODORE E. ALLISON,  
 Secretary of the Board.

[FR Doc. 77-26071 Filed 9-8-77; 8:45 am]

**Title 17—Commodity and Securities Exchanges**

**CHAPTER II—SECURITIES AND EXCHANGE COMMISSION**

[Release Nos. 33-5862; IC-9916; File No. S7-537]

**PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER**

**PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER**

**Sales Literature for Mutual Funds**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Amendment to statement of policy.

**SUMMARY:** The Commission amends its Statement of Policy governing mutual fund sales literature to allow certain additional charts and tables reflecting compound rates of total return and adopts an interpretive letter procedure under which the staff can express its opinion relative to the proposed use of charts and tables not included in the Statement. These actions are taken in order to update the Statement and give mutual funds more flexibility in the development of sales literature. The use of the new charts and tables should make available to investors more meaningful and comparable measures of mutual fund performance. The Commission is also requesting comments on certain proposed changes in the requirements relating to charts and tables currently authorized by the Statement.

**EFFECTIVE DATE OF AMENDMENT:** Immediately. Comments must be submitted on or before October 31, 1977.

**ADDRESSES:** Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All material should be designated "Program to Revise the Statement of Policy," File No. S7-537. Such communications will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**

Gene A. Gohlke, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202-755-1815).

**SUPPLEMENTARY INFORMATION:**

The Securities and Exchange Commission today announced the adoption of an amendment to its Statement of Policy ("Statement") (Statement of Policy adopted by the Commission August 11, 1950, and amended January 31, 1955, November 5, 1957 and May 19, 1975 (15 FR 5469 as amended 20 FR 793, 22 FR 8977 and 40 FR 21711)) governing sales literature of investment companies. The amendment adds to the charts and tables currently described in the Statement as not misleading charts and tables which portray investment results on a total return basis. Two of the charts added to the Statement by the amendment are revisions of charts included in a proposed amendment to the Statement published on November 4, 1974 (Release No. 33-5537 and IC-8571, 39 FR 40789); a third chart and a table were considered independently. In addition, the Commission is requesting comments on whether the use of the new mountain chart, Sample Chart E, should be made mandatory in conjunction with the use of any other chart currently allowed by the Statement, and whether the time period portrayed in any existing Statement chart or table should be limited to the most recent ten years unless specific Commission approval to use a longer time period is obtained.

In addition to expanding the number of presentations described in the Statement, the Commission announced that the staff of the Division of Investment Management would respond to interpretive requests relating to the use in investment company sales literature of presentations not discussed in the Statement of Policy.

**REVISION AND ADOPTION OF PORTRAYALS PREVIOUSLY PROPOSED**

In contrast to the proposed amendment, the amendment to the Statement contained herein applies only to mutual funds and not to variable annuities. In addition, this amendment adds three new formats for displaying investment results on a total return basis, one of which must be used whenever any of the total return charts herein adopted is used, and establishes a procedure that is designed to introduce flexibility to and adaptability of the content of the Statement.

The Statement sets forth the respects in which the Commission considers that literature used in connection with the sale of investment company shares may be misleading and violate the standards of the securities laws which, generally speaking, provide that it shall be unlawful to offer or sell securities by means of any untrue statement or omission of a material fact or by any fraudulent or deceitful practice or device. Initially pub-

lished in 1950, the Statement was last amended in 1975.

The current Statement does not permit, in using the mountain chart illustrated therein, the display of investment results on a total return basis or the measurement of these results in terms of a compound rate of total return. Neither has the use of semi-logarithmic charts nor the display of investment results on a fund-price-high to fund-price-low basis been approved. Furthermore, the Statement does not provide for the presentation of investment results in summary form during successive periods of less than ten years.

#### REASONS FOR THE AMENDMENT TO THE STATEMENT

An investor considering the purchase of mutual fund shares might benefit from the inclusion in sales literature of standardized charts of past investment results in a semi-log format, based on the total return earned (net investment income plus capital appreciation) and displayed on an annual fund-price-high to fund-price-low basis. An investor may also benefit from studying the changes in total value of an investment from period to period as shown in a mileage chart or in successive period tables. These innovations, and others contained in the new charts and tables, could help investors better to understand and evaluate past returns, risks and costs of mutual funds, and thus provide an efficient means of conveying information about the principal service investment companies provide to the investing public.

#### THE CHARTS AS ORIGINALLY PROPOSED

Under the amendment as originally proposed, the investment results of mutual funds could have been portrayed on Sample Charts E and F. Chart E, a mountain chart in semi-log format, had both a cumulative growth scale and an actual investments results scale. The cumulative growth scale was based on continuously compounded rates of return. Investment results were plotted on a yearly market-high to market-low basis using the Standard and Poor's Composite 500 Stock Index (S&P 500) as the market index. The S&P 500, on a total return basis, was also plotted on Chart E in order to give investors some indication of variations in the value of the investment in comparison to the market index. Fund investment results, both before and after fund expenses, were displayed in terms of capital appreciation and investment income. The base line of the chart was drawn at the net amount invested (gross investment minus sales load). The year-by-year summary of results tabulated at the base of Chart E was in terms of continuously compounded rates of return. Chart E portrayed the ten most recent years of a fund's existence or its life if less than ten years.

Chart F portrayed in a bar chart format the year-by-year total returns for the fund and the S&P 500, side-by-side, over the most recent ten-year period along with the ten-year average compound rate of return for the fund. The

chart also indicated by means of percentages the relative effects of capital appreciation and net investment income on returns as well as the effects of fund expenses and sales charges on the ten-year average return. Also included at the base of Chart F was a year-by-year listing of the average assets of the fund. The use of both Charts E and F would have been required whenever fund performance on a total return basis was portrayed.

#### CHARTS E AND F AS ADOPTED

Charts E and F as adopted are based upon the total return concept and show compound rates of return. However, several changes have been made in the format and content of the charts.

#### CHART E

Sample Chart E, set forth and described further in the Appendix, presents a continuous record of the results of an investment in a mutual fund on a total return basis. It continues the use of the semi-log format in order to allow accurate visual comparison and interpretation of results. It graphically illustrates investment results only in terms of changes in the dollar value of a sample investment. The cumulative growth scale has been deleted. Rather than requiring comparison of fund performance to that of the S&P 500, the chart makes optional comparison of fund performance to that of an appropriate index on a total return basis. Because the use of an index is optional, the presentation of fund results on a yearly fund-price-high to fund-price-low basis was substituted for the market-high to market-low basis. Fund results continue to be displayed in terms of capital appreciation and investment income so as to call attention to the variations in each component and the relative effect of each on the total return. The line representing fund total returns before fund expenses has been eliminated in order to simplify the chart. The primary base line (horizontal axis) of the chart has been redrawn at the \$10,000 level, the amount of the original investment, rather than at the \$9,150 level, the amount of the net investment, in order to give more emphasis to the effect of the sales charge on the total return. The use of a uniform period—the most recent ten years or the life of the fund if shorter—and uniform dimensions is continued so as to promote comparison of results among different funds and to minimize the possibility of distortion. Fund performance is shown in a tabular format at the base of Chart E in terms of both dollars and percentages. The percentages represent annual rates of return except for the 10 year averages which represent average, annually compounded rates of return.

Chart E may be presented alone and must be presented whenever any other chart portraying fund performance on a total return basis is presented.

In summary, Chart E is designed to permit investors to make meaningful visual interpretations of the past performance and current cost of an investment in a fund and to facilitate the com-

parison of such results from fund to fund.

#### CHART F

Sample Chart F, set forth and described further in the Appendix, portrays the same investment results as are portrayed in Chart E utilizing a bar graph of year-by-year total returns for the fund and an appropriate index, side by side, over the most recent ten-year period along with the ten-year average annual compound rate of return for the fund. The chart is drawn on a semilog scale in order that equal dollar changes, both plus and minus, in the value of the investment are represented by bars of equal length. The use of an appropriate index on a total return basis is optional. This change was made because the S&P 500 may not be a suitable basis of comparison for all funds. Average annual compound rates of return have been substituted for continuously compounded rates of return. The chart continues to show the relative effects of capital appreciation and net investment income on returns as well as the effects of expenses and sales charges on the annual and ten-year average returns. A line showing the percentage of annual fund expenses applicable to the \$10,000 investment has been added. This line of percentages replaces the portrayal of fund expenses on Chart E. The line representing average annual assets of the fund has been eliminated.

Presentation of annual variations in the fund's return should assist investors in distinguishing the average rate of return for a mutual fund which varies from year to year from the rather constant return available from a savings account or a fixed-income security. Contrasting the annual variations with the ten-year average rate should emphasize the potential differences in the annual returns with the average return over a longer period of time. Breaking the return into its component parts allows investors to distinguish between results obtained from income and capital appreciation and allows them to make their own evaluation of the variability of each source. The chart also more clearly illustrates the impact of costs and expenses on the total return. Comparing the annual returns with the index, if used, would also give some indication of how fund returns are related to market fluctuations.

Sample Chart F must be accompanied, in the same piece of sales literature, by Sample Chart E.

#### ADDITIONAL NEW CHARTS AND TABLES

In addition to Sample Charts E and F discussed above, the Commission has amended the Statement to include Sample Chart G, a "mileage" chart and variants thereof. While Chart G has not been exposed for public comment, it is based on the same total return concept as used in Sample Charts E and F and expands the alternatives available to investment companies for portraying their investment results on a total return basis.

## MILEAGE CHART

Sample Chart G (set forth and described further in the Appendix) is called a "mileage" chart because it has the format of the familiar mileage chart on a road map; it portrays the results of a \$10,000 investment on a total return basis (reinvestment of dividends and distributions) for any investment period or successive periods (in years) for a maximum of the most recent ten years or the life of the fund if shorter. From this chart, an investor can determine the value of a \$10,000 investment at the end of any number of years within a ten-year period by looking at the appropriate column or row. For example, the investor could ascertain investment results for each three-year period, each five-year period or each seven-year period during the last ten years. The figure at the bottom of each column represents the value of a \$10,000 investment at the end of the most recent year for each of ten possible different periods of time beginning with the year listed at the top of the column. The mileage chart must be accompanied in the same piece of literature by Sample Chart E and Sample Table 5 which is described below.

## SUCCESSIVE PERIOD TABLE(S)

Sample Chart G described above shows the investment results for every successive period for a maximum of the previous ten years. So, for example, from Chart G it is possible to determine the value of a \$10,000 investment at the end of each five-year period for six successive periods and at the end of each eight-year period for three successive periods. As an alternative to showing an investment company's results for every possible successive period during the most recent ten years, a fund may select certain successive periods such as every five years or every eight years and show in an appropriate tabular format the results of a \$10,000 investment for only the selected successive periods. If only selected successive periods are illustrated, every period within the successive period(s) selected must be shown on the table.

The length of the successive periods used could be any number of whole year periods from one year to ten years and any number of different successive period tables can be used. The successive period tables must be accompanied in the same piece of sales literature by Sample Table 5 which is described below.

## TABLE TO ACCOMPANY THE MILEAGE CHART AND SUCCESSIVE PERIOD TABLES

In order to make the use of mileage charts and successive period tables not misleading and also to provide persons using such charts and tables with detailed data on the components of total return, a table similar to Sample Table 5 (set forth and described further in the Appendix) must accompany, in the same piece of sales literature, the mileage chart and successive period tables.

Sample Table 5 portrays for the entire period covered, on either the mileage chart or successive period table(s), the components of the investment value at

the end of each year. The components identified are (1) the initial \$10,000 investment, (2) capital gains distributions reinvested, and (3) dividends reinvested. The total value of these components at each year end should equal the total value of the investment at that time. Knowing the year-by-year details should give investors a better understanding of how the three components change from year to year both relatively and in total. Furthermore, by comparing the value of the three components for the most recent year to the line on the table entitled "Cost plus actual amounts available for distributions and dividends," an investor can determine how much the initial investment, capital gain distributions and dividends have increased or decreased through investment or reinvestment in the fund.

Even though in Sample Table 5 dividends reinvested each year are not shown as being added to the initial cost of the investment, the total amount of dividends as well as the total amount of capital gains distributions that could have been received in cash are shown in the last row of the table. Both the reinvested distributions and dividends are then added to the initial cost of the investment to obtain a total "amount invested" figure against which the total value of the shares can be compared. Thus, Table 5 shows in total, for both distributions and dividends, what current Statement tables show on a yearly basis.

Sample Table 5 can be presented independently of any other chart or table. Sample Table 5 can portray at a maximum the most recent ten years of life of the fund if shorter.

## LOCATION OF SAMPLE CHARTS AND TABLES IN PROSPECTUSES

In addition to their use in sales literature, one or more of Sample Charts E, F, or G, the successive period tables, and sample Table 5 may also be used in prospectuses. If the charts and/or tables are used in prospectuses, they may be located anywhere in the prospectus but in such a way so as not to obscure or detract from other portions of the prospectus.

## PROCEDURE FOR INTERPRETIVE LETTERS

While the Statement carefully conditions the use of the various charts and tables illustrated therein, it does not prescribe the use of alternate presentations not discussed in the Statement, but states that "Persons using other charts and tables must assume responsibility that they are not materially false or misleading." Nevertheless, the use of charts and tables has been, as a practical matter, almost completely restricted to those illustrated in the Statement. We believe that this restriction prevails because of the policy of the Commission staff in the past not to issue opinions that presentations not specifically included in the Statement were not misleading and the reluctance of the industry to use novel presentations without some indication from the Commission or its staff that the presentation was considered not mis-

leading. Such a situation can easily result in the failure of investment companies to develop and use to their legitimate advantages new, and possibly better, charts and tables which are not misleading.

In order to assist the industry in its effort to develop and use nonmisleading novel presentations, the Division of Investment Management will respond to requests for interpretive positions relating to presentations of investment company results not discussed in the Statement. While this procedure is being established in order to make nonmisleading presentations available for use more quickly than would be the case if an amendment to the Statement were required for each new chart or table, such submissions will be given full consideration by the staff and it is expected that the NASD will be consulted. It is anticipated that any such new presentations may be subject to conditions, one of which may be the inclusion of Chart E in order to maintain comparability among investment companies. Moreover, the Division anticipates that, because the Statement extensively describes the presentations included therein and the conditions under which they may be used, favorable responses will not ordinarily be given in the case of modifications of the charts and tables included in the Statement. All letters requesting an interpretive position pursuant to this procedure should include a statement by the sender that he does not object to the request and the reply thereto being made public immediately upon the issuance of the reply.

Appended to this Release is the text of the amendment to the Statement and the Sample Charts and Tables the use of which is permissible under the amendment.

## REQUEST FOR COMMENTS ON PROPOSED CHANGES TO THE REQUIREMENTS FOR CHARTS AND TABLES CURRENTLY AUTHORIZED BY THE STATEMENT

In connection with its consideration of the total return charts and tables being adopted by this Release, the Commission considered the length of the time period that should be portrayed in these charts and tables. Among the points considered by the Commission as warranting a ten-year limitation were the following:

1. The average individual investor does not appear to retain his investment in a fund for more than ten years,<sup>1</sup> and
2. The economic environment, events, and fund management that existed more than ten years ago may not be similar to the current circumstances of the fund.

On the basis of these considerations, the Commission determined that the total return charts and tables should be limited to a maximum of the most re-

<sup>1</sup> While it is difficult to compute a precise figure for the length of time the average individual investor remains invested in a fund, the staff estimates that the average person retains his investment in a mutual fund for approximately ten years.

cent ten years or life of the fund if shorter.

The Commission is also considering, for the same reasons, limiting the maximum time period that could be portrayed on charts and tables currently approved by the Statement to ten years or the life of the fund if shorter.<sup>2</sup>

The Commission recognizes, however, that an argument could be made that charts and tables showing periods in excess of ten years may not be misleading in all situations. For example, the sales effort of a mutual fund might be directed toward pension funds or other institutions whose investment horizon may reasonably be assumed to be in excess of ten years. For these exceptional situations, two approaches are possible. On the one hand, standards might be developed approving the use of periods greater than ten years in specified circumstances. On the other hand, the Commission could consider whether specific charts and/or tables that exceed the ten-year limitation are misleading on an individual request basis. Under either approach, the circumstances which would make a chart or table portraying a period in excess of ten years not misleading would have to be such as to make inapplicable the two basic reasons on which the Commission based its general ten-year limitation.

The Commission in its consideration of the total return charts decided that Sample Chart E, the mountain chart, should accompany, in the same piece of sales literature, Sample Charts F and G in order to obtain a greater degree of uniformity and comparability among funds in their presentations of performance on a total return basis and in order to make Charts F and G not misleading. The Commission is also considering whether Sample Chart E should accompany, in the same piece of sales literature, any of the charts currently approved by the Statement in order to make such charts not misleading and both to achieve greater comparability among funds and to show performance on a total return basis whenever any performance chart is used.

Interested persons are requested to submit their views and comments on the proposals to:

(1) Limit the time period portrayed in existing Statement charts and tables to a maximum of the most recent ten years,

(2) Find that certain charts and tables which exceed the ten-year limit are not misleading, and

(3) Require the use of Sample Chart E in conjunction with the use of any other performance chart approved by the Statement.

In order to provide further guidance for the inclusion of 1977 fund operating results in charts and tables which may be used in 1978 sales literature and prospectuses, the Commission intends to publish its definitive views on these three proposals before the end of the current

calendar year. Accordingly, the Commission does not contemplate any extension of the comment period.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

SEPTEMBER 1, 1977.

AMENDMENT TO THE STATEMENT OF POLICY

It will be considered materially misleading hereafter for sales literature—

(a) To represent or imply a percentage return in the shares of an investment company except in accordance with paragraph (t) or unless based upon—

(b) (1) To combine into any one amount distributions from net investment income and distributions from any other source except in a manner consistent with Sample Charts E, F, and G, successive period tables and Sample Table 5.

(j) (1) \* \* \*

(i) The text, graphic detail and arrangement of any such chart or table should be substantially as shown on Sample Charts A, B, C, D, E, F, G and Sample Table 5 in the Appendix, whichever is applicable.

(j) (3) Approved charts and tables patterned after Charts A, B, C, and D and Tables 1, 2, 3, and 4 should conform with the following:

(j) (4) Approved charts patterned after Charts E and F should conform with the following:

(i) If the life of the fund is less than 10 years, the maximum number of complete calendar years available should be used and the average compound return over the period covered should be used instead of the ten-year average compound return.

(ii) The visual presentation on Chart E may be extended to cover a portion of the current calendar year by means of an overlay which would cover the figures for the investment results which appear on the right hand side of these charts. The extensions should be plotted as straight lines starting with the values at the end of the last complete calendar year and ending with the most recent values.

(iii) The dates of the intermediate fund highs and lows during the year needed in constructing Chart E should be determined in reference to the net asset value per share of the subject fund.

(iv) The results of an investment of other than \$10,000 may be portrayed on charts similar to Charts E and F: *Provided*, That they are accompanied by Chart(s) E and F portraying a \$10,000 investment.

(v) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of \$10,000 and the reinvestment of dividends should be portrayed on Charts E and F for the entire period covered.

(vi) The investment results portrayed can be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(vii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the dates such distributions took place. Any sales charge levied on reinvested net investment income should be considered in computing the number of shares purchased.

(viii) The results of a single investment of \$10,000 in a mutual fund may be portrayed on a chart substantially similar to Chart E which contains the following information:

A. The growth of the investment in dollars on a total return basis showing both the growth due to net investment income (after fund expenses) and the growth due to capital appreciation, plotted on a semi-logarithmic scale on an annual fund-price-high to fund-price-low basis over the most recent ten calendar years;

B. The chart should clearly differentiate by means of separate markings the cumulative effects of capital appreciation, net investment income and capital appreciation and income needed to recover the initial sales charge.

C. An appropriate index may be plotted using the fund-price-high and fund-price-low dates as the intermediate plotted points during each year. The index chosen should be appropriate considering the fund's investment policies and objectives. Examples of indexes that may be appropriate include the S&P 500, New York Stock Exchange or American Stock Exchange Index, NASDAQ Index or an index of mutual fund performance. The Dow Jones Industrial Average will not be considered an appropriate index except in those cases where the fund's portfolio is primarily invested in very large New York Stock Exchange listed equities. The figures for any index used should reflect the total return (both dividends and appreciation) on the index in order to be comparable to the total return figures of the fund. If an index is used, an appropriate second vertical scale should be added to Chart E or, alternatively, the index should be converted into dollar amounts.

D. A year-by-year tabular summary of results in dollars disclosing end of year value of the investment and income during the year assuming income was taken in cash and end of year value of the investment assuming income is reinvested.

E. A year-by-year tabular summary of results in percentages disclosing:

(a) The year-by-year total return and a ten-year average, annually compounded total return after expense deductions expressed as the sum of the returns due to net investment income before deduction of any sales charges on reinvested dividends and capital appreciation before deduction of any initial sales charge and any withdrawal charge;

(b) The effect of any initial sales charge on the first year's total return;

(c) The effect on a year's total return of any sales charge on reinvested dividends during the year;

(d) The effect of any withdrawal charge on the tenth year's total return; and

(e) The effect of any sales and/or withdrawal charges on the ten-year average total return.

(f) The annual total return and the ten-year average total return after deduction of all sales charges.

(g) The Fund expenses applicable to the investment expressed as a percentage.

(ix) The annual and the ten-year average annual rate of total return on a single investment of \$10,000 in a mutual fund may be portrayed on a semi-logarithmic chart substantially similar to Chart F which contains the following information:

A. A bar graph presentation of the total returns after sales charges and expense deductions for each year over the most recent ten calendar years, side-by-side with the value on a total return basis, of an appropriate index. The use of a comparative index is optional. If an index is used, it should comply with the guidelines enumerated in paragraph (viii)C of this section. If indices are used in both Sample Charts E and F, the same index must be used on both charts.

<sup>2</sup> Currently, charts and tables approved by the Statement can portray periods of time up to the life of the fund.

B. A bar graph presentation of the ten year average annually compounded total return expressed as the sum of the average compound return due to capital appreciation and the average compound return due to investment income, indicating the effects of fund expenses and any sales charges on the initial investment and reinvested dividends (and any withdrawal charge) on the ten-year average compound return and highlighting the return after expenses and after the sales (and/or withdrawal) charges.

C. The year-by-year tabular summary of results in percentages at the base of the chart should be constructed in accordance with the instructions contained in paragraph (j) (3) (viii) E(a)-(g).

(x) If Sample Chart E is used, it should be accompanied in the same piece of literature by Sample Chart E.

(xi) For purposes of constructing Sample Charts E and F, the following definitions apply:

A. Dates of the fund-price-high and fund-price-low during a year are, respectively, the days on which the per share net asset value of the fund was at its high and at its low during a year.

B. Actual Investment Results Plotted on a fund-price-high to fund-price-low basis means that the values of the investment at year ends and at the dates of fund-price-highs and lows should be plotted on the chart and these values connected by straight lines.

C. Actual Investment Results Scale is a logarithmic scale which is used to measure changes in the dollar value of the sample investment on Chart E. The Actual Investment Results Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on single cycle, semi-log graph paper may be used to construct the Actual Investment Results Scale.

(a) A radial line representing a 10 percent annually compounded rate of return and plotted from the \$10,000 point on the Actual Investment Results Scale shall not have more than a 25 degree angle with the horizontal axis (\$10,000 level) of the chart.

D. The Percentage Change Scale on Chart F is a logarithmic scale which is used to measure the annual percentage change in the value of the sample investment. The Percentage Change Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on single cycle, semi-log graph paper may be used to construct the Percentage Change Scale.

E. The annual percentage changes on Sample Chart E and, if used, Chart F, should be calculated in the following manner:

(a) The net income return (after fund expenses) is the percentage calculated by dividing the gross cash dividends (before deducting any sales charge on reinvested dividends) declared on the shares held in the sample investment during a year by the total value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested (\$10,000).

(b) The appreciation return is the percentage calculated by dividing the total change in the value of the investment during a year minus the actual amount of dividends reinvested (gross dividends minus any sales charge) during the year by the total value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested (\$10,000).

(c) The total return before sales charges is the sum of the net income return and the appreciation return for the year.

(d) The sales charge on the initial investment is the percentage computed by dividing the dollar amount of the sales charge by the total amount invested.

(e) The sales charge on reinvested dividends is the percentage computed by dividing the dollar amount of sales charges on dividends reinvested during the year by the value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested (\$10,000). These percentages would be shown only by those funds that have a sales charge on reinvested dividends.

(f) The total return after sales charges is the summation of items "a" through "e" above. The total return can also be computed by dividing the difference between the value of the investment at the beginning and end of each year by the value of the investment at the beginning of the year.

For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested (\$10,000).

(g) The fund expense percentage is calculated by dividing the total fund expenses applicable to the shares held in the sample investment during the year by the value of the investment at the beginning of the year. For the year in which the initial investment is made, the value at the beginning of the year is the total amount invested (\$10,000).

F. The 10 year average compound return on Sample Chart E, and if used, Chart F represents annually compounded returns and the computations should be done in such a way that the components of the average return when added together equal the ten year average compound return after sales charges. Both the average compound income return and the average compound appreciation return should be computed using the full \$10,000 invested and not the net amount invested.

(i) (5) Approved charts patterned after Sample Chart G, total return successive period tables, and tables patterned after Sample Table 5 should conform with the following:

(1) The investment results portrayed may be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(ii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the date such distributions took place. If a sales charge is levied on reinvested net investment income, such charge should be considered in computing the number of new shares purchased.

(iii) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of \$10,000 and the reinvestment of dividends should be used.

(iv) The value at the end of each year of a single investment of \$10,000 in a mutual fund on a total return basis may be portrayed on a chart substantially similar to Sample Chart G which contains the following information:

A. The period shown is a maximum of the most recent ten years or the life of the fund if shorter.

B. A column for each year during the period covered showing the total value of the \$10,000 investment at the end of the year in which the investment was assumed to have been made and at the end of every successive year thereafter up to the end of the most current year.

C. A row for each of the periods included in the chart with the rows constructed in such a way that the dollar amount shown at the intersection of each row and column

would represent the value of \$10,000 invested at the beginning of the year listed at the top of the column and invested for the number of years indicated by the number of the row.

D. Appropriate explanations of the rows and columns and how the rows and columns are to be used in interpreting the chart.

(v) Where a chart patterned after Sample Chart G is used, the chart should be accompanied in the same piece of literature by Sample Chart E and a table substantially similar to Sample Table 5 described in subparagraph (v) of this subsection.

(vi) As an alternative to using Sample Chart G which shows investment results for every possible successive period during a maximum of the most recent ten years, a table or tables may be presented which show total investment results for only selected successive periods. Such successive periods may be any period such as every five-year period or every eight-year period during the most recent ten years or life of the fund if shorter. Any whole number of years from one to ten may be used as the length of the successive periods. All successive period total return charts should conform to the following requirements.

A. Every successive period of the length of the successive periods selected during the number of years included in the table should be shown in the table. Thus, for example, if five-year successive periods are selected, every five-year period within the period covered by the table should be shown.

B. The table(s) should have a column for the successive periods included showing both the beginning and ending year of each successive period.

C. The table(s) should have a column showing the total value of the investment at the end of each successive period listed.

D. The table(s) should be accompanied in the same piece of literature by a table substantially similar to Sample Table 5 described in the following subparagraph.

(vii) A table substantially similar to Sample Table 5, and covering the same number of years as are shown on Chart G and/or total return successive period tables should accompany Sample Chart G and total return successive period tables. Table 5 may be presented independently of any other chart or table. Table 5 should contain the following information:

A. Columns showing the value of a single \$10,000 investment at the end of each year by component and the total value of the investment at the end of each year.

B. The numbers in the "Total Value of Shares" column should be the same as those shown in the first left hand total value column of the Sample Chart G (if used).

C. The last row of the table entitled "Cost plus actual amounts available for distributions and dividends" should show, respectively, the initial amount of the investment, the total amount of capital gains distributions that could have been received in cash during the total period illustrated, the total amount of income dividends that could have been received in cash during the total period illustrated, and the total of the three columns.

D. If a sales charge is levied on reinvested dividends, a note to the table should state the total amount of dividends actually reinvested after deduction of the sales charge.

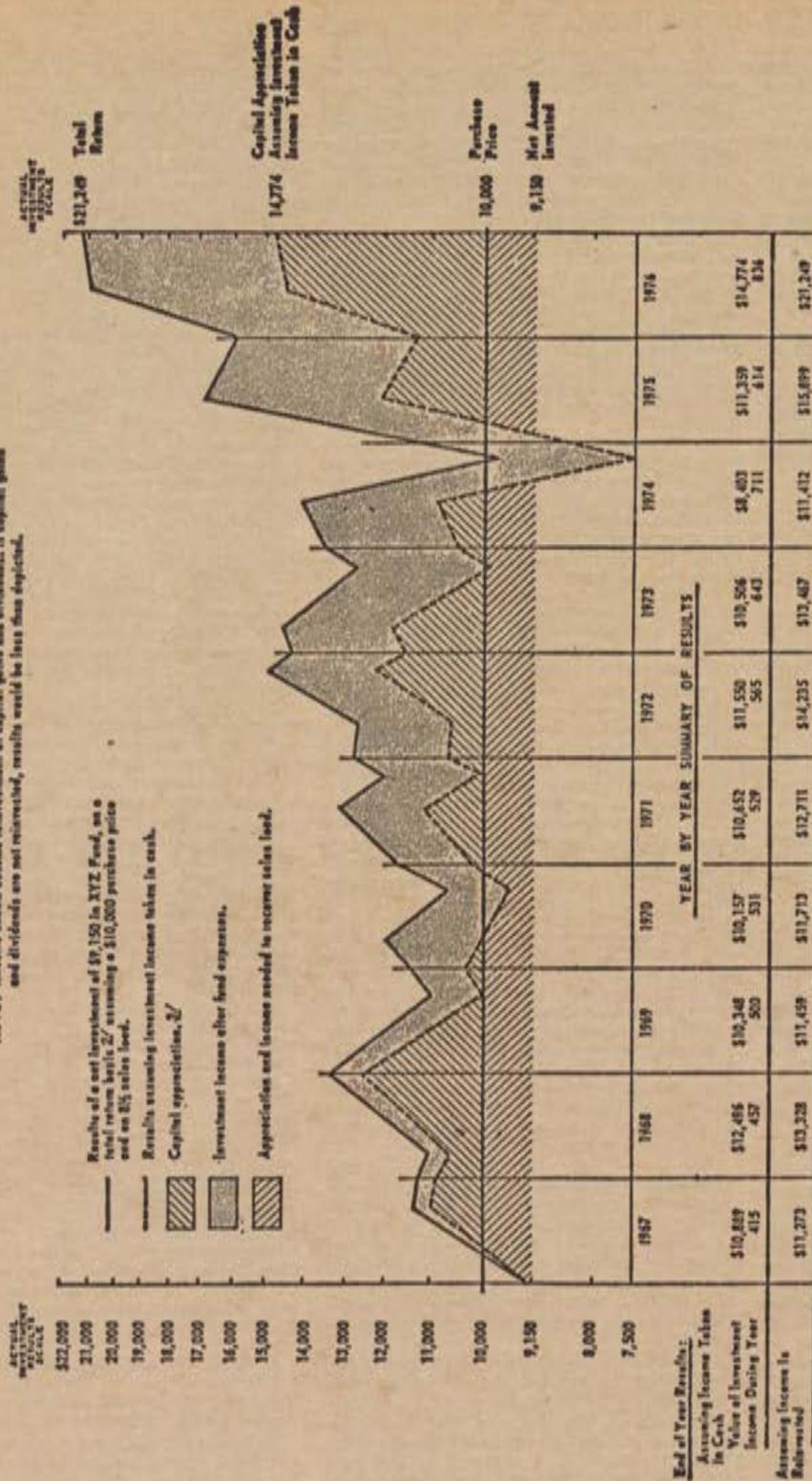
E. If the table is used alone, it should cover the most recent ten years of the life of the fund if shorter.

(t) To represent or imply in sales literature a compound rate of total return on an investment in a mutual fund unless such representation is accompanied by charts substantially similar to Sample Charts, E, F, G, successive period tables or Sample Table 5.

**SAMPLE CHART E**  
**RESULTS OF A \$10,000 INVESTMENT IN XYZ FUND**

With Dividends and Capital Gains Distributions Reinvested, before Taxes 1/

NOTE: Results show income reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



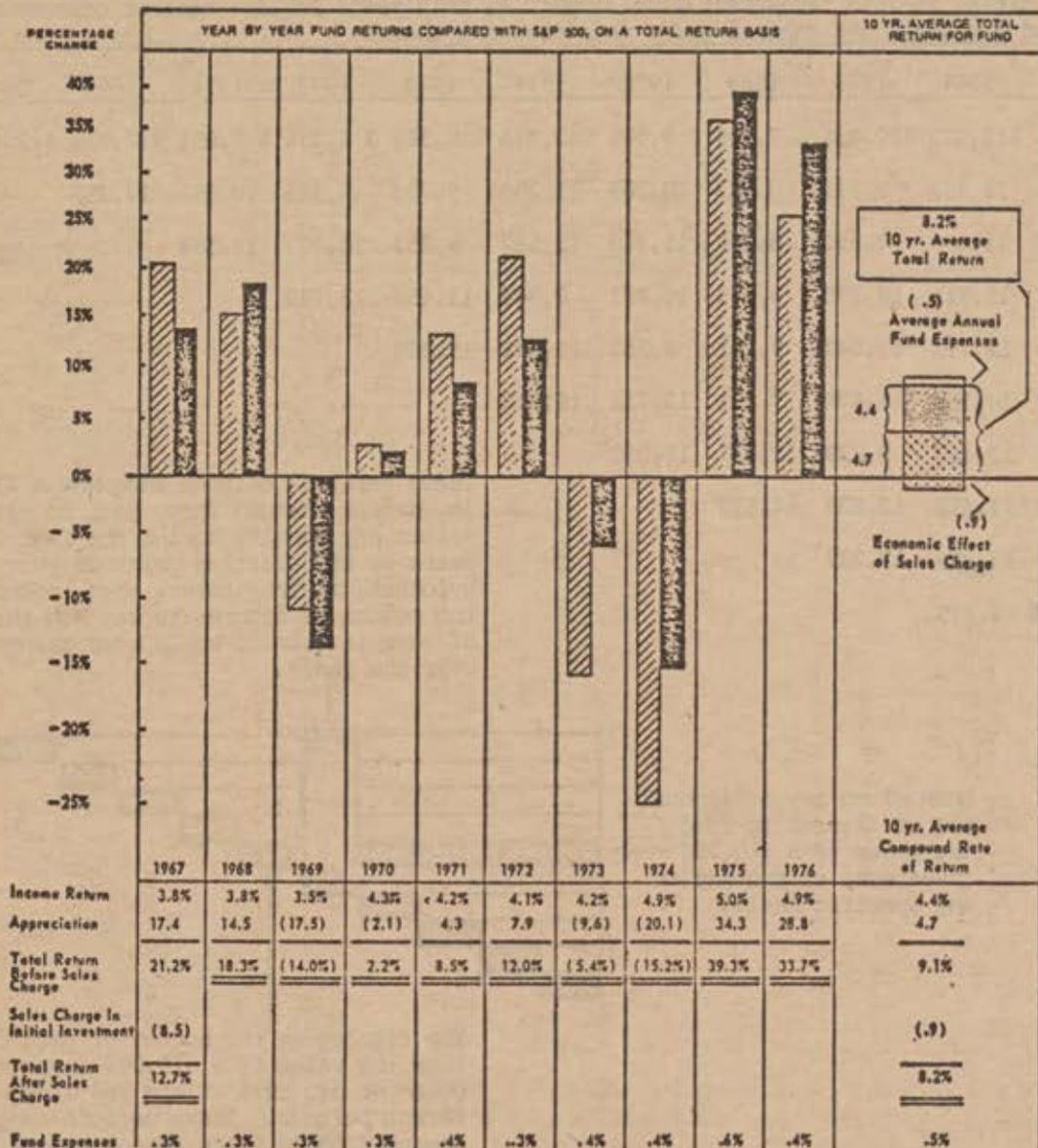
YEAR BY YEAR SUMMARY OF RESULTS		PERCENTAGES		10 YR. AVERAGE					
1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
End of Year Results:									
Accruing Income Taken in Cash	\$10,889	\$12,486	\$10,157	\$10,452	\$11,550	\$10,506	\$8,403	\$11,359	\$14,774
Value of Investment	415	457	500	529	565	643	711	814	836
Accruing Income Is Reinvested	\$11,273	\$13,228	\$11,459	\$11,713	\$14,235	\$12,407	\$11,412	\$15,899	\$21,240
Income Return	3.8%	3.8%	3.5%	4.3%	4.2%	4.1%	4.3%	5.0%	4.9%
Appreciation	17.4	14.5	(17.5)	(2.1)	4.3	(9.4)	(28.1)	34.3	28.3
Total Return Before Sales Charges	21.2%	18.3%	(14.0%)	2.2%	8.5%	(5.4%)	(15.2%)	39.3%	33.7%
Sales Charges on Initial Investment	(8.5)								
Total Return After Sales Charges	12.7%	10.0%	(14.0%)	0.3%	4.2%	(14.8%)	(19.5%)	30.8%	25.8%
Fund Expenses	3%	2%	3%	2%	3%	4%	3%	4%	4%
		10 YR. AVERAGE							
		3%		2.2%		4.1%		4.9%	
		12.7%		8.5%		15.2%		33.7%	
		10.0%		4.2%		19.5%		25.8%	
		14.0%		0.3%		14.8%		30.8%	
		17.4%		4.3%		28.1%		28.3%	
		21.2%		8.5%		15.2%		39.3%	
		18.3%		4.2%		19.5%		34.3%	
		14.0%		4.1%		15.2%		33.7%	
		10.0%		4.3%		14.8%		30.8%	
		7.5%		3.5%		14.0%		25.8%	
		5.0%		2.2%		14.8%		21.2%	
		3.8%		0.3%		14.0%		17.4%	
		3.8%		3%		14.8%		14.0%	
		3.5%		2%		15.2%		10.0%	
		4.3%		3%		19.5%		7.5%	
		4.2%		4%		28.1%		5.0%	
		4.1%		4%		34.3%		4.3%	
		4.3%		4%		39.3%		4.1%	
		5.0%		4%		44.5%		4.3%	
		4.9%		4%		49.7%		4.3%	
		4.7%		4%		54.9%		4.3%	
		4.7%		4%		60.1%		4.3%	
		4.7%		4%		65.3%		4.3%	
		4.7%		4%		70.5%		4.3%	
		4.7%		4%		75.7%		4.3%	
		4.7%		4%		80.9%		4.3%	
		4.7%		4%		86.1%		4.3%	
		4.7%		4%		91.3%		4.3%	
		4.7%		4%		96.5%		4.3%	
		4.7%		4%		101.7%		4.3%	
		4.7%		4%		106.9%		4.3%	
		4.7%		4%		112.1%		4.3%	
		4.7%		4%		117.3%		4.3%	
		4.7%		4%		122.5%		4.3%	
		4.7%		4%		127.7%		4.3%	
		4.7%		4%		132.9%		4.3%	
		4.7%		4%		138.1%		4.3%	
		4.7%		4%		143.3%		4.3%	
		4.7%		4%		148.5%		4.3%	
		4.7%		4%		153.7%		4.3%	
		4.7%		4%		158.9%		4.3%	
		4.7%		4%		164.1%		4.3%	
		4.7%		4%		169.3%		4.3%	
		4.7%		4%		174.5%		4.3%	
		4.7%		4%		179.7%		4.3%	
		4.7%		4%		184.9%		4.3%	
		4.7%		4%		190.1%		4.3%	
		4.7%		4%		195.3%		4.3%	
		4.7%		4%		200.5%		4.3%	
		4.7%		4%		205.7%		4.3%	
		4.7%		4%		210.9%		4.3%	
		4.7%		4%		216.1%		4.3%	
		4.7%		4%		221.3%		4.3%	
		4.7%		4%		226.5%		4.3%	
		4.7%		4%		231.7%		4.3%	
		4.7%		4%		236.9%		4.3%	
		4.7%		4%		242.1%		4.3%	
		4.7%		4%		247.3%		4.3%	
		4.7%		4%		252.5%		4.3%	
		4.7%		4%		257.7%		4.3%	
		4.7%		4%		262.9%		4.3%	
		4.7%		4%		268.1%		4.3%	
		4.7%		4%		273.3%		4.3%	
		4.7%		4%		278.5%		4.3%	
		4.7%		4%		283.7%		4.3%	
		4.7%		4%		288.9%		4.3%	
		4.7%		4%		294.1%		4.3%	
		4.7%		4%		299.3%		4.3%	
		4.7%		4%		304.5%		4.3%	
		4.7%		4%		309.7%		4.3%	
		4.7%		4%		314.9%		4.3%	
		4.7%		4%		320.1%		4.3%	
		4.7%		4%		325.3%		4.3%	
		4.7%		4%		330.5%		4.3%	
		4.7%		4%		335.7%		4.3%	
		4.7%		4%		340.9%		4.3%	
		4.7%		4%		346.1%		4.3%	
		4.7%		4%		351.3%		4.3%	
		4.7%		4%		356.5%		4.3%	
		4.7%		4%		361.7%		4.3%	
		4.7%		4%		366.9%		4.3%	
		4.7%		4%		372.1%		4.3%	
		4.7%		4%		377.3%		4.3%	
		4.7%		4%		382.5%		4.3%	
		4.7%		4%		387.7%		4.3%	
		4.7%		4%		392.9%		4.3%	
		4.7%		4%		398.1%		4.3%	
		4.7%		4%		403.3%		4.3%	
		4.7%		4%		408.5%		4.3%	
		4.7%		4%		413.7%		4.3%	
		4.7%		4%		418.9%		4.3%	
		4.7%		4%		424.1%		4.3%	
		4.7%		4%		429.3%		4.3%	
		4.7%		4%		434.5%		4.3%	
		4.7%		4%		439.7%		4.3%	
		4.7%		4%		444.9%		4.3%	
		4.7%		4%		450.1%		4.3%	
		4.7%		4%		455.3%		4.3%	
		4.7%		4%		460.5%		4.3%	
		4.7%		4%		465.7%		4.3%	
		4.7%		4%		470.9%		4.3%	
		4.7%		4%		476.1%		4.3%	
		4.7%		4%		481.3%		4.3%	
		4.7%		4%		486.5%		4.3%	
		4.7%		4%		491.7%		4.3%	
		4.7%		4%		496.9%		4.3%	
		4.7%		4%		502.1%		4.3%	
		4.7%		4%		507.3%		4.3%	
		4.7%		4%		512.5%		4.3%	
		4.7%		4%		517.7%		4.3%	
		4.7%		4%		522.9%		4.3%	
		4.7%		4%		528.1%		4.3%	
		4.7%		4%		533.3%		4.3%	
		4.7%		4%		538.5%		4.3%	
		4.7%		4%		543.7%		4.3%	
		4.7%		4%		548.9%		4.3%	
		4.7%		4%		554.1%		4.3%	
		4.7%		4%		559.3%		4.3%	
		4.7%		4%		564.5%		4.3%	
		4.7%		4%		569.7%		4.3%	
		4.7%		4%		574.9%		4.3%	
		4.7%		4%		580.1%		4.3%	
		4.7%		4%		585.3%		4.3%	
		4.7%		4%		590.5%		4.3%	
		4.7%		4%		595.7%		4.3%	
		4.7%		4%		600.9%		4.3%	
		4.7%		4%		606.1%		4.3%	
		4.7%		4%		611.3%		4.3%	
		4.7%		4%		616.5%		4.3%	
		4.7%		4%		621.7%		4.3%	
		4.7%		4%		626.9%		4.3%	
		4.7%		4%		632.1%		4.3%	
		4.7%		4%		637.3%		4.3%	
		4.7%		4%		642.5%		4.3%	
		4.7%		4%		647.7%		4.3%	
		4.7%		4%		652.9%		4.3%	
		4.7%		4%		658.1%		4.3%	
		4.7%		4%		663.3%		4.3%	
		4.7%		4%		668.5%		4.3%	
		4.7%		4%		673.7%		4.3%	
		4.7%		4%		678.9%		4.3%	
		4.7%		4%		684.1%		4.3%	
		4.7%		4%		689.3%		4.3%	
		4.7%		4%		694.5%		4.3%	
		4.7%		4%		699.7%		4.3%	
		4.7%		4%		704.9%		4.3%	
		4.7%		4%		710.1%		4.3%	
		4.7%		4%		715.3%		4.3%	
		4.7%		4%		720.5%		4.3%	
		4.7%		4%		725.7%		4.3%	
		4.7%		4%		730.9%		4.3%	
		4.7%		4%		736.1%		4.3%	
		4.7%		4%		741.3%		4.3%	
		4.7%		4%		746.5%		4.3%	
		4.7%		4%		751.7%		4.3%	
		4.7%		4%		756.9%		4.3%	
		4.7%		4%		762.1%		4.3%	
		4.7%		4%		767.3%		4.3%	
		4.7%		4%		772.5%		4.3%	
		4.7%		4%		777.7%		4.3%	
		4.7%		4%		782.9%		4.3%	
		4.7%		4%		788.1%		4.3%	
		4.7%		4%		793.3%		4.3%	
		4.7%		4%		798.5%		4.3%	
		4.7%		4%		803.7%		4.3%	
		4.7%		4%		808.9%		4.3%	
		4.7%		4%		814.1%		4.3%	
		4.7%		4%		819.3%		4.3%	
		4.							

SAMPLE CHART F

ILLUSTRATION OF TEN YEAR AVERAGE 8.2% TOTAL RETURN FOR XYZ FUND <sup>1/2/</sup>

-  Ten Year Average Return Due to Capital Appreciation <sup>1/</sup>
-  Ten Year Average Return Due to Fund Investment Income Before Expenses
-  Annual Total Fund Returns
-  Annual Changes in S&P 500

NOTE: Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



<sup>1/</sup> Results shown do not take into account personal income and capital gains taxes.

<sup>2/</sup> Total return refers to the results available when dividends and capital gains distributions are reinvested.

<sup>3/</sup> Capital appreciation includes reinvested capital gains distributions and appreciation/depreciation on reinvested income dividends.

## RULES AND REGULATIONS

## SAMPLE CHART G

Chart showing the Results of a Single Investment of \$10,000 in the XYZ Fund on a Total Return Basis over any Investment Period during the Last Ten Years

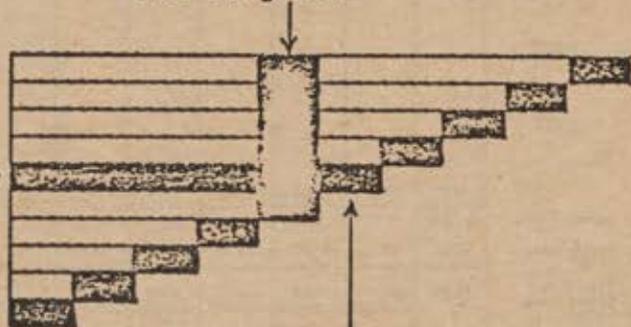
**NOTE:** Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.

Initial \$10,000 investment made January 1, this year. Results reflect reinvestment of dividends and capital gains in additional shares

	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	
Investment period tells you the number of years your money remained invested	1	\$11,273	\$10,976	\$ 7,908	\$ 9,501	\$10,076	\$10,396	\$ 8,736	\$ 7,801	\$12,929	\$12,450
	2	13,328	9,351	8,103	10,306	11,290	9,795	7,346	10,851	17,357	
	3	11,459	9,581	8,790	11,549	10,637	8,233	10,220	14,569		
	4	11,713	10,395	9,850	10,881	8,946	11,459	13,720			
	5	12,711	11,647	9,281	9,152	12,445	15,386				
	6	14,235	10,974	7,805	12,731	16,708					
	7	13,467	9,229	10,857	17,092						
	8	11,412	12,839	14,578							
	9	15,899	17,237								
	10	21,249									

These vertical columns show how a \$10,000 investment changed from year to year. Select any January during the last 10 years as the starting point of your hypothetical investment, then look down the column of figures to see how the value of your investment would have changed over the years.

Look along any horizontal row of figures to find the value of a \$10,000 investment at the end of any specific period



The figures at the bottom of each column show the value of a \$10,000 investment on December 31, 1976 at the end of ten different periods. These periods range in length from 10 years (the vertical column on the left) to 1 year (the vertical column on the right.)

## SAMPLE TABLE 5

ILLUSTRATION OF AN ASSUMED INVESTMENT OF \$10,000  
with Dividends Reinvested and Capital Gains  
Distributions Accepted in Shares

The table below covers the period from January 1, 1967 to December 31, 1976. This period was one in which common stock prices fluctuated severely and were generally at the same level at the end of the period as they were at the beginning. The results shown should not be considered as a representation of the dividend income or capital gain or loss which may be realized from an investment made in the fund today.

Year ended December 31	Value of Shares by Component			Total Value of Shares
	Value of \$10,000 Investment	Value of Capital gains Distributions	Value of Reinvested Dividends	
1967	\$10,104	\$ 785	\$ 384	\$11,273
1968	10,725	1,771	832	13,328
1969	8,360	1,988	1,111	11,459
1970	8,012	2,145	1,556	11,713
1971	8,082	2,570	2,059	12,711
1972	8,488	3,062	2,685	14,235
1973	7,479	3,027	2,961	13,467
1974	5,937	2,466	3,009	11,412
1975	7,838	3,521	4,540	15,899
1976	<u>9,844</u>	<u>4,930</u>	<u>6,475</u>	<u>21,249</u>

Cost plus actual amounts available for distributions and dividends	<u>\$10,000</u>	<u>\$ 4,473</u>	<u>\$ 5,801</u>	<u>\$20,274</u>
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Dividends reinvested are subject to sales commissions of 7 1/4% as described in the prospectus and such commissions were deducted from the dividends paid each year in computing the dollar amount of dividends reinvested. The cumulative amount of dividends reinvested during the period 1967 - 1976 was \$5,367.

No adjustment has been made for any income taxes payable by shareholders on capital gains distributions and dividends invested in shares.

[FR Doc. 77-26326 Filed 9-8-77; 8:45 am]

## Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS  
ADMINISTRATION, DEPARTMENT OF  
LABORSUBCHAPTER A—LONGSHOREMEN'S AND HAR-  
BOR WORKERS' COMPENSATION ACT AND  
RELATED STATUTESPART 702—ADMINISTRATION AND  
PROCEDURESOffice of Workers' Compensation Pro-  
grams; Longshoremen's and Harbor  
Workers' Compensation

AGENCY: Department of Labor.

ACTION: Final rule.

**SUMMARY:** This rule clarifies and expands the rules applicable to the filing, processing and adjudication of claims filed under the Longshoremen's and Harbor Workers' Compensation Act as amended and extended. It includes procedures for processing discrimination charges and defines the term "physician" and "final payment of compensation." The amendments will enable the Department of Labor to process in a more efficient and timely manner the increasing number of claims filed each year.

**DATE:** These amendments will be effective October 11, 1977.

**FOR FURTHER INFORMATION CONTACT:**

John E. Stocker, Associate Director for Longshore and Harbor Workers' Compensation, U.S. Department of Labor, Washington, D.C. 20210. (202-523-8721).

**SUPPLEMENTARY INFORMATION:** On August 13, 1976, a notice of proposed rulemaking was published in the *FEDERAL REGISTER* (41 FR 34294), which proposed to amend certain rules of the Department of Labor governing the administration of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., as amended by Pub L. 92-576, 86 Stat. 1251 (20 CFR 701 and 702) to clarify and expand the rules applicable to the filing, processing and adjudication of claims. The public was given until September 13, 1976 to make written comments on the proposal. Written comments were received by the Office of Workers' Compensation Programs from 28 parties.

Substantive comments received from all sources have been considered and have resulted in changes being made to several provisions of the regulations. Some of the suggestions were not adopted either because the changes suggested were unwarranted, unnecessary, or went beyond the scope of the rules to be revised. A section by section summary of the substantive comments received and of the action taken in response thereto is set forth below.

1. *Section 702.104.* Under this section a deputy commissioner may transfer an individual case file to another compensation district whenever he determines that such transfer is necessary or appropriate to properly develop the claim. Such action may be taken with the prior or subsequent approval of the Director,

OWCP. Under the proposed amendment an employee who moves from one district to another may request that his file be transferred to the second compensation district. Several persons suggested that the employer should also have the right to request that the file be transferred and further that such action should be taken only where it would not be unduly burdensome to all of the parties. The final regulation has been revised to grant the employer as well as the claimant the right to request a transfer, while reserving to the deputy commissioner, with the Director's approval, the ultimate decision making authority. The provision in the proposal which requires that the letter contemplated by § 702.104(b) be sent to all interested parties is adopted.

2. *Section 702.162.* Two comments were received concerning this section. The first suggested that a specified period should be established within which the claimant may dispute the right of a trust fund to the lien provided for in section 17(b) of the Longshoremen's Act or to the amount stated in the application for a lien. This suggestion has merit and the regulation has been revised to indicate that such opposition should be filed within 30 days after the claimant received a copy of the application or such other longer period as the deputy commissioner may set.

The second commentator urges that once a lien satisfies the "threshold" criteria of section 17(b) it shall be authorized either by the deputy commissioner at the informal level or by the administrative law judge at the formal hearing level, thus eliminating any exercise of discretion by the deputy commissioner or administrative law judge in authorizing a lien. Without gainsaying the merit or rationale for, in effect, substituting "shall" for "may" in the proposed regulation, the fact is that the regulation simply tracks "may" from section 17(b) itself, and it would be neither appropriate nor proper to vary the statutory language by implementing regulation. With regard to the contention that Congress intended the lien authorization to be mandatory upon satisfaction of the criteria in section 17(b), we consider that the language of that section is clear that although the basic criteria are satisfied the authorization of the lien is still a matter for the Secretary's discretion, as exercised by the deputy commissioner or administrative law judge.

3. *Section 702.212.* Under the proposed revision to § 702.212(c) a claim would be "any writing evidencing a claimant's intent to claim compensation and benefits provided by" the Act. The comments received objected to this amendment because it was neither specific nor clear as to what might actually constitute a claim for purposes of section 13 of the Longshoremen's Act. After reviewing such comments it has been decided that the provision in question should not be amended at this time.

The proposed new § 702.212(b) has been adopted as proposed.

4. *Section 702.235.* This section is being revised in accordance with the comments

received to clarify what constitutes a final payment of compensation within the meaning of section 14(g) of the Longshoremen's Act by adding a new subparagraph (5) which reads—

(5) Any other payment of compensation which anticipates no further payments under the Act.

Another suggestion that the regulation specify that the required reports must be filed within 16 working days must be rejected as inconsistent with the statute. It was also suggested that the third line of subparagraph (a) be revised to impose the duty to file timely reports on the insurance carrier when the employer is not self-insured. This suggestion has been approved and incorporated into the final regulation.

5. *Sections 702.271-702.274.* These provisions are designed to establish procedures for resolving claims seeking redress from an employer because of an alleged violation of section 49 of the Act. Several persons suggested that if a penalty is to be assessed against an employer in a contested case, such penalty should be assessed by the administrative law judge as part of the final decision resolving the issues relating to the alleged unlawful activity, rather than by the deputy commissioner as proposed in § 702.274. These comments have much merit and thus § 702.273 has been revised to authorize the administrative law judge to assess a penalty where appropriate. Section 702.-274 as proposed has been deleted.

Section 702.271(b) has been revised to state that the deputy commissioner shall notify the employer of the filing of a discrimination complaint.

Section 702.272 as proposed has also been clarified to ensure that the employee is entitled to a hearing where the deputy commissioner's informal recommendation is to deny the claim.

6. *Section 702.281.* Although no comments received strongly opposed this section of the regulations, one commentator suggested that information concerning the terms, conditions and amounts of third party settlements, compromises or judgments should be required only where written approval of the settlement or compromise has been given by the employer and insurance carrier. Such a limitation is deemed unnecessary and inconsistent with the basic purposes of the regulation which is designed to assist the employee, employer and/or insurance carrier, and the deputy commissioner in complying with the provisions of section 33 of the Longshoremen's Act.

7. *Section 702.312.* In adopting this section as proposed, we have rejected the suggestion that where a claimant is represented an informal conference may be called only at the request of the representative. Since the primary purpose of the informal conference is to resolve, where possible, contested issues, the suggested limitation would unduly restrict the actions of the deputy commissioner and may result in some unnecessary delays in the processing of claims.

8. *Section 702.315.* This section has been revised to state that upon the request of any party the deputy commis-

sloner shall issue a formal compensation order within 30 days of the request.

9. Section 702.404. In the notice of proposed rulemaking (41 FR 34294) it was stated that the definition of "physician" as used in the Act would conform to the use of that term as defined in the Federal Employees' Compensation Act (FECA). Although most comments received concerning this proposal were favorable, several objections were received, particularly with respect to the inclusion of chiropractors. Since Congress amended the FECA to specifically include chiropractors and others within the definition of physician and since the Secretary has always been guided by the terms of the FECA in defining "physician" for Longshoremen's Act purposes, these objections have been rejected. Section 702.404 has been revised to ensure conformity of interpretation under the two statutes.

10. Section 702.411. This section dealing with special examinations conducted pursuant to section 7(e) of the Act has been revised to provide that upon request a party shall be given copies of all information, opinions, reports, etc., that were made available to the impartial specialist. Another suggestion which would restrict the use of impartial specialists to those situations where claimant's counsel has requested an impartial examination has been rejected as an unreasonable and unnecessary limitation on the authority of the deputy commissioner.

11. Section 702.412. One commentator suggested that the cost of the initial special examination should be borne by the party requesting the examination. This suggestion was rejected as being contrary to the provisions of section 7(e) of the Act. For the same reason another suggestion that the Special Fund established by section 44 of the Act should always pay where more than one special examination is ordered was also rejected.

12. In addition to adopting those proposals published August 13, 1976, §702.410 has also been revised to authorize deputy commissioners to order the suspension of compensation payments where the employee unreasonably refuses to submit to a medical examination by a physician selected by the employer or where an employee refuses to submit to a special examination as required by §§ 702.408 and 702.409. Although this revision was not initially published as a proposal, the requirements of 5 U.S.C. 553 do not apply since it is not in the public interest to permit the continued payment of compensation where the party will not cooperate and there is a potential for fraud.

This document was prepared under the direction and supervision of George M. Lilly, Counsel for Longshore, Suite N-2716, New Department of Labor Building, Washington, D.C. 20210, Telephone No. area code 202-523-7651. Accordingly, 20 CFR Part 702 is amended as follows:

1. Section 702.104 is revised to read as follows:

**§ 702.104 Transfer of individual case file.**

(a) At any time after a claim is filed, the deputy commissioner having jurisdiction thereof may, with the prior or subsequent approval of the Director, transfer such case to the deputy commissioner in another compensation district for the purpose of making an investigation, ordering medical examinations, or taking such other action as may be necessary or appropriate to further develop the claim. If, after filing a claim, the claimant moves to another compensation district, the deputy commissioner may, upon request by the claimant or the employer and with the approval of the Director, transfer the case to such other compensation district.

(b) The deputy commissioner making the transfer may by letter or memorandum to the deputy commissioner to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. The transfer of cases shall be by registered or certified mail. All interested parties shall be advised of the transfer.

2. Section 702.161 is revised to read as follows:

**LIENS ON COMPENSATION**

**§ 702.161 Liens against assets of insurance carriers and employers.**

(a) Where a claimant is entitled to compensation under the provisions of this Act, and the carrier or employer shall have suffered insolvency, bankruptcy, or reorganization in bankruptcy proceedings and be unable to pay appropriate compensation, the claimant shall have a lien against the assets of such carrier or employer, or both. Such lien shall be without limit and shall be entitled to preference and priority in the distribution of the assets of such carrier or employer, or both.

(b) Where payments have been made from the special fund pursuant to section 18(b) of the Act and § 704.145(f) the Secretary of Labor shall, for the benefit of the fund, be subrogated to all the rights of the person receiving such payments including the right of lien and priority provided for by section 17(a) of the Act, 33 U.S.C. 917(a). The Secretary may institute proceedings under either section 18 or 21(d) of the Act, 33 U.S.C. 918 or 921(d), or both, to recover the amount expended by the fund or so much as in the judgment of the Secretary is possible, or the Secretary may settle or compromise any such claim.

3. Section 702.162 is revised to read as follows:

**§ 702.162 Liens on compensation authorized under special circumstances.**

(a) Pursuant to section 17(b) of the Act, 33 U.S.C. 917(b), when a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947, 29 U.S.C. 186(c) [LMRA], established pursuant to a collective bargain-

ing agreement in effect between an employer and an employee entitled to compensation under this Act, has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to compensation under this Act, a lien may be authorized on such compensation in favor of the trust fund for the amount of such payments.

(b) (1) An application for such a lien shall be filed on behalf of the trust fund with the deputy commissioner for the compensation district where the claim for compensation has been filed, 20 CFR 702.101. Such application shall include a certified statement by an authorized official of the trust fund that:

(i) The trust fund is entitled to a lien in its favor by reason of its payment of disability payments to a claimant-employee (including his name therein);

(ii) The trust fund was created pursuant to a collective bargaining agreement covering the claimant-employee;

(iii) The trust fund complies with section 302(c) of the Labor-Management Relations Act of 1947, 29 U.S.C. 186(c);

(iv) The trust agreement contains a subrogation provision entitling the fund to reimbursement for disability benefits paid to the claimant-employee who is entitled to compensation under the Longshoremen's Act;

(2) The statement shall also state the amount paid to the named claimant-employee and whether such disability benefit payments are continuing to be paid.

(3) If the claimant has signed a statement acknowledging receipt of disability benefits from the trust fund and/or a statement recognizing the trust fund's entitlement to a lien against compensation payments which may be received under the Longshoremen's and Harbor Worker's Compensation Act as a result of his present claim and for which the fund is providing disability payments, such statement(s) shall also be included with or attached to the application.

(c) Upon receipt of this application, the deputy commissioner shall, within a reasonable time, notify the claimant, the employer and/or its compensation insurance carrier that the request for a lien has been filed and each shall be provided with a copy of the application. If the claimant disputes the right of the trust fund to the lien or the amount stated, if any, he shall, within 30 days after receipt of the application or such other longer period as the deputy commissioner may set, notify the deputy commissioner and he shall be given an opportunity to challenge the right of the trust fund to, or the amount of, the asserted lien; notice to either the employer or its compensation insurance carrier shall constitute notice to both of them.

(d) If the claim for compensation benefits is resolved without a formal hearing and if there is no dispute over the amount of the lien or the right of the trust fund to the lien, the deputy commissioner may order and impose the lien

and he shall notify all parties of the amount of the lien and manner in which it is to be paid.

(e) If the claimant's claim for compensation cannot be resolved informally, the deputy commissioner shall transfer the case to the Office of the Chief Administrative Law Judge for a formal hearing, pursuant to section 19(d) of the Act, 33 U.S.C. 919(d), and 20 CFR 702.317. The deputy commissioner shall also submit therewith the application for the lien and all documents relating thereto.

(f) If the administrative law judge issues a compensation order in favor of the claimant, he may include therein a lien in favor of the trust fund if it is determined that the trust fund has satisfied all of the requirements of the Act and regulations.

(g) If the claim for compensation is not in dispute, but there is a dispute as to the right of the trust fund to a lien, or the amount of a lien, the deputy commissioner shall transfer the matter together with all documents relating thereto to the Office of the Chief Administrative Law Judge for a formal hearing pursuant to section 19(d) of the Act, 33 U.S.C. 919(d), and 20 CFR 702.317.

(h) In the event that either the deputy commissioner or the administrative law judge is not satisfied that the trust fund qualifies for a lien under section 17(b), he may require further evidence including but not limited to the production of the collective bargaining agreement, trust agreement, or portions thereof.

(i) Before any such lien is finally approved, if the trust fund has provided continued disability payments after the application for a lien has been filed, the trust fund shall submit a further certified statement showing the total amount paid to the claimant as disability payments. The claimant shall likewise be given an opportunity to contest the amount alleged in this subsequent statement.

(j) In approving a lien on compensation, the deputy commissioner or administrative law judge shall not order an initial payment to the trust fund in excess of the amount of the past due compensation. The remaining amount to which the trust fund is entitled may thereafter be deducted from the affected employee's subsequent compensation payments and paid to the trust fund, but any such payment to the trust fund shall not exceed 10 percent of the claimant-employee's bi-weekly compensation payments.

4. Section 702.212(b) is revised to read as follows:

**§ 702.212 Claims for compensation; time limitations.**

(b) The time limitations set forth, supra, do not apply to claims filed under section 49 of the Act, 33 U.S.C. 948a, see § 702.271.

5. Section 702.235 is revised to read as follows:

**§ 702.235 Report by employer of final payment of compensation.**

(a) Within 16 days after the final payment of compensation has been made, the employer, the insurance carrier, or where the employer is self-insured, the employer shall notify the deputy commissioner on a form prescribed by the Secretary, stating that such final payment has been made, the total amount of compensation paid, the name and address of the person(s) to whom payments were made, the date of the injury or death and the name of the injured or deceased employee, and the inclusive dates during which compensation was paid.

(b) A "final payment of compensation" for the purpose of applying the penalty provision of § 702.236 shall be deemed any one of the following:

(1) The last payment of compensation made in accordance with a compensation order awarding disability or death benefits, issued by either a deputy commissioner or an administrative law judge;

(2) The payment of an agreed settlement approved under section 8(i) (A) or (B), of the Act, 33 U.S.C. 908(i);

(3) A lump sum payment of future compensation payments commuted under section 14(j) of the Act, 33 U.S.C. 914(j);

(4) The last payment made pursuant to an agreement reached by the parties through informal proceedings;

(5) Any other payment of compensation which anticipates no further payments under the Act.

6. Section 702.271 is revised to read as follows:

**§ 702.271 Review of discharge or other acts of discrimination.**

(a) Under the provisions of section 49 of the Act, 33 U.S.C. 948a any employer or its duly authorized agent who discharges, or in any other manner discriminates against an employee because he or she has claimed or attempted to claim compensation or has testified or is about to testify in a proceeding under this Act, shall be liable to a penalty of not less than \$100 nor more than \$1,000.

(b) When a deputy commissioner receives a complaint from an employee alleging discrimination as defined under section 49, he or she shall notify the employer, and within five working days, initiate specific inquiry to determine all the facts and circumstances pertaining thereto. This may be accomplished by interviewing the employee, employer representatives and other parties who may have information about the matter. Interviews may be conducted by written correspondence, telephone or personal interview.

(c) If circumstances warrant, the deputy commissioner may also conduct an informal conference on the issue as described in §§ 702.312-314.

(d) Any employee discriminated against is entitled to be restored to his employment and to be compensated by the employer for any loss of wages aris-

ing out of such discrimination provided that the employee is qualified to perform the duties of the employment. If it is determined that the employee has been discriminated against, the deputy commissioner shall also determine whether the employee is qualified to perform the duties of the employment. The deputy commissioner may use medical evidence submitted by the parties or he may arrange to have the employee examined by a physician selected by the deputy commissioner. The cost of the medical examination arranged for by the deputy commissioner may be charged to the special fund established by section 44, 33 U.S.C. 944.

7. Section 702.272 is revised to read as follows:

**§ 702.272 Informal recommendation by deputy commissioner.**

(a) If the deputy commissioner determines that the employee has been discharged or suffered discrimination and is able to resume his or her duties, the deputy commissioner will recommend that the employer reinstate the employee and/or make such restitution as is indicated by the circumstances of the case, including compensation for any wage loss suffered as the result of the discharge or discrimination. The deputy commissioner may also assess the employer an appropriate penalty, as determined under authority vested in the deputy commissioner by the Act. If the deputy commissioner determines that no violation occurred he shall notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the deputy commissioner's recommendation, it will be incorporated in an order and mailed to each party within 10 days.

(b) If the parties do not agree to the recommendation, the deputy commissioner shall, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, mail a copy to all interested parties, and shall within 14 days thereafter refer the case to the Office of the Chief Administrative Law Judge for hearing pursuant to § 702.317.

8. Section 702.273 is revised to read as follows:

**§ 702.273 Adjudication by Office of the Chief Administrative Law Judge.**

The Office of Administrative Law Judges is responsible for final determinations of all disputed issues connected with the discrimination complaint, including the amount of penalty to be assessed, and shall proceed with a formal hearing as described in §§ 702.331 to 702.394.

9. Section 702.274 is revised to read as follows:

**§ 702.274 Employer's refusal to pay penalty.**

In the event the employer refuses to pay the penalty assessed, the deputy

commissioner shall refer the complete administrative file to the Associate Director, Division of Longshore and Harbor Workers' Compensation, for subsequent transmittal to the Associate Solicitor for Employee Benefits, with the request that appropriate legal action be taken to recover the penalty.

10. Section 702.281 is revised to read as follows:

**§ 702.281 Third party action.**

(a) Every person claiming benefits under this Act (or the representative) shall promptly notify the employer and the deputy commissioner when:

(1) A claim is made that someone other than the employer or person or persons in its employ, is liable in damages to the claimant because of the injury or death and identify such party by name and address.

(2) Legal action is instituted by the claimant or the representative against some person or party other than the employer or a person or persons in his employ, on the ground that such other person is liable in damages to the claimant on account of the compensable injury and or death; specify the amount of damages claimed and identify the person or party by name and address.

(3) Any settlement, compromise or any adjudication of such claim has been effected and report the terms, conditions and amounts of such resolution of claim. (Caution: See 33 U.S.C. 933(g).)

11. Section 702.312 is revised to read as follows:

**§ 702.312 Informal conferences: Called by and held before whom.**

Informal conferences shall be called by the deputy commissioner or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the deputy commissioner, except that a compensation order following an agreement shall be issued only by a person so designated by the Director to perform such duty.

12. Section 702.315 is revised to read as follows:

**§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.**

(a) Following an informal conference at which agreement is reached on all issues, the deputy commissioner shall, within 10 days after conclusion of the conference, embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and mailed in accordance with § 702.349. If either party requests that a formal compensation order be issued the deputy commissioner shall, within 30 days of such request, prepare, file, and serve such order in accordance with § 702.349. Where the problem was of such nature that it was resolved by telephone discussion or by exchange of written correspondence, the parties shall be notified

by the same means that agreement was reached and the deputy commissioner shall prepare a memorandum or order setting forth the terms agreed upon. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.

13. Section 702.403 is revised to read as follows:

**§ 702.403 Employee's right to choose physician; limitations.**

The employee shall have the right to choose his attending physician from among those authorized by the Director, OWCP, to furnish such care and treatment. In determining the choice of a physician, consideration must be given to availability, the employee's condition and the method and means of transportation. Generally 25 miles from the place of injury, or the employee's home is a reasonable distance to travel, but other pertinent factors must also be taken into consideration.

14. Section 702.404 is revised to read as follows:

**§ 702.404 Physician defined.**

The term "physician" includes doctors of medicine (MD), surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation shown by x-ray or clinical findings. Physicians defined in this part may interpret their own x-rays. All physicians in these categories are authorized by the Director to render medical care under the Act. Naturopaths, faith healers, and other practitioners of the healing arts which are not listed herein are not included within the term "physician" as used in this part.

15. Section 702.410 is revised to read as follows:

**§ 702.410 Duties of employees with respect to special examinations.**

(a) For any special examination required of an employee by §§ 702.408 and 702.409, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee.

(b) Where an employee fails to submit to an examination required by §§ 702.408 and 702.409, the deputy commissioner may order that no compensation otherwise payable shall be paid for any period during which the employee refuses to submit to such examination unless circumstances justified the refusal.

(c) Where an employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the deputy commissioner may by order suspend the payment of further compensation during such time as the refusal continues.

16. Section 702.411 is revised to read as follows:

**§ 702.411 Special examinations; nature of impartiality of specialists.**

(a) The special examinations required by § 702.408 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner may be made aware, by any party or by the OWCP, of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the employee's impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, if the Deputy Commissioner determines that, for good cause, such opinions, reports or conclusions shall be made available. Upon request, any party shall be given a copy of all materials made available to the impartial examiner.

17. Section 702.412 is revised to read as follows:

**§ 702.412 Special examinations; costs chargeable to employer or carrier.**

(a) The Director or his designee ordering the special examination shall have the power in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or to the special fund established by section 44 of the Act, 33 U.S.C. 944.

(b) The Director or his designee may also order the employer or the insurance carrier to provide the employee with the services of an attendant, where the deputy commissioner considers such services necessary, because the employee is totally blind, has lost the use of both hands, or both feet or is paralyzed and unable to walk, or because of other disability making the employee so helpless as to require constant attendance in the discretion of the deputy commissioner. Fees payable for such services shall be in accord with the provisions of § 702.412.

18. Section 702.413 is revised to read as follows:

**§ 702.413 Fees for medical services; prevailing community charges.**

All fees charged by physicians for the care of persons covered by this Act, or any other charges for medical treatment or supplies within the purview of this Act, shall be limited to such charges for similar treatment, services or supplies as prevail in the community in which the physician, medical facility or supplier is located. In those jurisdictions where there are official State medical fee

schedules for workers' compensation, they may be used as guidelines.

Signed at Washington, D.C., this 6th day of September 1977.

JOHN B. MUMFORD,  
Acting Assistant Secretary  
for Employment Standards.

[FR Doc.77-26366 Filed 9-8-77;8:45 am]

#### Title 21—Food and Drugs

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

#### SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0384]

#### PART 310—NEW DRUGS

##### Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Delay of effective date of final regulation.

SUMMARY: The effective date of the final regulation requiring patient labeling for estrogenic drug products is extended to October 18, 1977. The extension is in response to a request to delay the running of the effective date for the length of time required to consider petitions to stay the final regulation.

EFFECTIVE DATE: Section 310.515 (21 CFR 310.510) shall be effective on October 18, 1977.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

#### FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301-443-5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), the Commissioner of Food and Drugs issued a final regulation to require patient labeling for prescription estrogenic drug products. The regulation specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. The regulation was scheduled to become effective on September 20, 1977.

On August 4, 1977, the Food and Drug Administration (FDA) received petitions from the Pharmaceutical Manufacturers Association and The American College of Obstetricians and Gynecologists requesting a stay of this effective date pending the outcome of litigation challenging the validity of the regulation. At the same time, counsel for the two petitioners requested that the running of the 60-day period between publication of the final regulation in the FEDERAL REGISTER and

its effective date be tolled, i.e., suspended, for the length of time it takes the agency to consider the petitions. Petitioners argued that unless a suspension in the running of the 60-day period is granted, manufacturers would be required to begin taking steps to meet the new labeling requirements before the agency decision on the petitions requesting a stay. In its response to the request, FDA acknowledged that the time between the Commissioner's decision on the petitions and the scheduled effective date of September 20, 1977, might be insufficient to enable manufacturers to comply with the regulation. Therefore, the agency agreed to suspend the running of the 60-day period for the brief period needed to respond to the petitions.

On September 1, 1977, the Commissioner denied the petitions to stay the final regulation. Copies of the petitions and the Commissioner's responses to them are on file in the office of the Hearing Clerk, Food and Drug Administration. In all, 28 days had elapsed from date of submission of the petitions (August 4, 1977) to the issuance of the Commissioner's decision. Accordingly, consistent with the request, the effective date of the final regulation is extended to October 18, 1977.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: September 1, 1977.

WILLIAM F. RANDOLPH,  
Acting Associate  
Commissioner for Compliance.

[FR Doc.77-26025 Filed 9-2-77;9:57 am]

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

[FRL 787-7; PAF 6H5145-T28]

### PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

#### Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting the experimental use of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate in pineapple bran. The regulation was requested by the Pineapple Growers' Assoc. of Hawaii. This rule will permit the marketing of pineapple bran while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on September 9, 1977.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. (202-755-4851).

#### SUPPLEMENTARY INFORMATION:

On November 18, 1976, the EPA announced (41 FR 50854) that the Pineapple Growers' Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, HA 96813, had filed a food additive petition (FAP 6H5145). This petition proposed that 21 CFR Part 561 be amended to establish a food additive regulation permitting the use of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in a proposed experimental program involving application of the nematocide to growing pineapples with a tolerance limitation of 10 parts per million (ppm) for residues of the nematocide in dried pineapple bran. This petition was submitted in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136 (a) et seq. No comments were received by the Agency in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permits. It has further been determined that since residues of the pesticide may result in dried pineapple bran from the agricultural use provided for in the experimental use permits, the feed additive regulation should be established and should include a tolerance limitation. The toxicological data considered in support of the proposed tolerance were 90-day dog and rat-feeding studies, a two-year dog-feeding study, a rabbit teratology study, and a hen neurotoxicity study. The metabolism of the subject pesticide in plants and animals has been adequately described, and an adequate analytical method (gas chromatography with thermionic detection) is available for enforcement purposes. There is no reasonable expectation of residues from the proposed use in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The available data and information are sufficient to support the proposed tolerance. The following data must be supplied prior to the establishment of a permanent tolerance or for any expanded use: The manufacturing process for the pesticide, the toxicological significance of residues of phenolic hydrolysis products, the composition of a certain inert ingredient, correct nomenclature for the sulfoxide and sulfone metabolites of the pesticide, and additional residue data reflecting the proposed use in Hawaii. Also a mutagenicity study may be required.

Permanent tolerances have previously been established (40 CFR 180.349) for residues of the pesticide on peanut hulls at 0.4 ppm; bananas, brussels sprouts, and cabbage at 0.1 ppm; cottonseed and soybeans at 0.05 ppm; and peanuts at 0.02 ppm. (A related document establishing a tolerance of 0.2 ppm for residues of the pesticide on pineapples appears elsewhere in today's FEDERAL REGISTER.) Accordingly, a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before October 11, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 9, 1977, 21 CFR Part 561 is amended as set forth below.

Dated: August 31, 1977.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Sec. 408(c) (1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c) (1))

Part 561 is amended by adding section 561.232 to read as follows:

§ 561.232 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate.

(a) A tolerance of 10 parts per million is established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in pineapple bran resulting from application of the nematocide in accordance with the provisions of two experimental use permits that expire August 31, 1980.

(b) Residues in pineapple bran not in excess of 10 parts per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental use program will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and feed additive tolerance.

(c) The Pineapple Growers' Association of Hawaii shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The association shall also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc.77-28259 Filed 9-8-77;8:45 am]

## Title 24—Housing and Urban Development

### CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-77-429]

#### PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

##### Mobile Home Loans; Prepayment of Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule prescribes the mathematical method to be used for calculating finance charges when loans are prepaid. The rule provides that lenders must use the "actuarial method," which is defined in the rule, in calculating earned and unearned finance charges. Use of the "actuarial method" provides for a more exact calculation of interest and will result in lower interest charges for consumers who prepay mobile home loans.

EFFECTIVE DATE: This amendment is effective October 10, 1977.

#### FOR FURTHER INFORMATION CONTACT:

Christopher LaMartina, Director, Title I Insured Loan Division, Dept. Housing and Urban Development, 451 Seventh Street, SW., Room 6133, Washington, D.C. 20410. (202-755-8636).

SUPPLEMENTAL INFORMATION. On January 7, 1977, a proposed rule was published in the FEDERAL REGISTER (42 FR 1487). Sixteen comments were received and the rule has been modified in certain respects as a result of the comments received.

Several commenters questioned the allowance of a minimum retained charge, not to exceed \$50 where authorized under state law, when a loan is prepaid. This provision has been deleted because of the penalty it would impose on consumers.

In response to other comments, the regulations were amended to provide that in the event of prepayment a lender would be permitted to retain a 1 percent origination fee, if such fee was assessed against the borrower, as an earned charge, without provision for total or partial rebate with respect to such fee.

A number of financial institutions and trade associations representing financial institutions stated their objections to the adoption of the rule on the grounds that the reduction in earnings resulting from the rule might discourage lending institutions from making mobile home loans. Other commenters felt that the "Rule of 78th's" method should be retained because it is a simpler method. A commenter suggested that the actuarial

method be used only for loans having terms of more than 144 months. After careful consideration these suggestions and objections were rejected as it is unfair to require borrowers who prepay their loans to pay proportionately larger finance charges than borrowers whose loans run for the term of the loan. For instance, with a \$10,000 loan for 12 years at 12 percent prepaid in the 52nd month, the debt would be calculated under the "Rule of 78th's" as \$555.91 more than it would be if calculated according to the actuarial method. The Department recognizes that prepayment of loans in some cases results in loss of anticipated income to lending institutions; however, this factor is considered in establishing the initial interest charge for loans.

A commenter expressed serious concern about the effect of the Department's proposed rule on banks' methods for extending insured mobile home credit, stating that several states' laws governing rebate of finance charges require the use of the "sum of the digits" method ("Rule of 78th's") in the computation of earned financing charges. Many state laws require the use of the "Rule of 78th's." However, the Department has determined that these laws set minimum requirements and do not prohibit the rebating of a greater portion of the finance charge to consumers.

The actuarial method of computation of earned and unearned finance charges is a more exact and understandable method than the "Rule of 78th's" and results in all cases in lower charges to consumers who prepay their loans. After careful consideration of all of the comments that have been received it has been determined to adopt the actuarial method.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 201 is amended as follows:

1. By adding a new paragraph (n) to § 501 to read as follows:

#### § 201.501 Definitions.

(n) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge, pursuant to which a payment is applied first to the accumulated finance charge, and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

2. Section 201.540(b) is amended to read as follows:

#### § 201.540 Financing charges.

(b) *Prepayment rebate.* If an obligation is paid in full, or otherwise matured, prior to its scheduled maturity, the insured shall rebate the full unearned charge, if any, where such rebate is \$1.00 or more. The earned charge shall be calculated by the actuarial method. When an obligation is prepaid in full and the borrower has previously paid an origination fee, where the law of the jurisdiction permits, such origination fee, or permissible portion thereof, may be retained by the insured and not included in the charge for the purpose of calculating the unearned charge to be rebated.

3. Section 201.585 is amended by adding the following material after the final sentence, to read as follows:

§ 201.585 Refinancing.

\* \* \* The full amount of any unearned finance charge on the original obligation shall be rebated to the borrower. The earned charge shall be calculated by the actuarial method. The finance charge for the purpose of calculating the earned charge and the unearned finance charge shall not include an origination fee paid by the borrower, if any. The borrower may be assessed a handling charge of not more than \$25.00 in figures in connection with the refinancing.

4. Section 201.680(a) is amended to read as follows:

§ 201.680 Amount of claim.

(a) Deduct from the unpaid amount of the obligation (net unpaid principal, and the earned portion of the finance charge calculated according to the actuarial method) \* \* \*

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246, (12 U.S.C. 1703), as amended.)

NOTE.—The Department of Housing & Urban Development has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821.

Issued at Washington, D.C., August 27, 1977.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing,  
Federal Housing Commissioner.

[FR Doc.77-26275 Filed 9-8-77;8:45 am]

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

PART 452—GENERAL STATEMENT CONCERNING THE ELECTION PROVISIONS OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Subpart E—Candidacy for Office; Reasonable Qualifications

AGENCY: Labor-Management Services Administration, Department of Labor.

ACTION: Typographical corrections to a final amendment to an interpretative rule.

SUMMARY: The amendments in this document correct typographical errors in the amendment to § 452.38 of Department of Labor's regulations as published in F.R. Vol. 42, No. 148 at 39105 and 39106 on August 2, 1977.

EFFECTIVE DATE: Since this amendment corrects typographical errors and does not change substance, it is effective on September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Raskin, Chief, Branch of Interpretations and Standards, Division of Program Standards, Office of Labor-Management Standards Enforcement, Labor-Management Services Administration, Department of Labor, Washington, D.C. 20210. (202-523-7373).

SUPPLEMENTARY INFORMATION: This document was prepared under the direction and control of Carl Rolnick, Director, Office of Labor-Management Standards Enforcement, Room N5408, New Department of Labor Building, 200 Constitution Ave. N.W., Washington, D.C. 20210, telephone 202-523-7377.

29 CFR Part 452 is amended by revising section 452.38 as follows:

1. The figure 70 at the end of the second line in paragraph (A-1) should be 79.
2. In the 11th line of paragraph (b) the section symbol before 11,857 should be a paragraph symbol.
3. In the 18th line of paragraph (b) "was moot" should be "as moot."
4. In the 22nd line of paragraph (b) the semicolon after Ass'n should be a comma.
5. In the 22nd line of paragraph (b) 985 should be 965.
6. In the 10th line from the end of paragraph (b) there should be a paragraph symbol before 12,816.
7. In the 10th line from the end of paragraph (b) there should be a comma instead of a period in 12,816.

Signed at Washington, D.C., this 31st day of August, 1977.

FRANCIS X. BURKHARDT,  
Assistant Secretary of Labor.

[FR Doc.77-25955 Filed 9-8-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 779-3]

PART 80—REGULATION OF FUELS AND FUELS ADDITIVES

Unleaded Gasoline Regulations; Information and Reports; Liability Provisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment allows EPA to request information from wholesale purchaser-consumers concerning suspected violations of the unleaded gasoline regulations. This amendment also

changes the liability of branded refiners for contamination of unleaded gasoline at owned or leased facilities to conform with applicable case law.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Weissman, Attorney-Advisor, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. (202-755-2816).

SUPPLEMENTARY INFORMATION:

1. REQUESTS FOR INFORMATION FROM WHOLESALE PURCHASER-CONSUMERS

On November 12, 1974, it was proposed that section 80.7 be added to 40 CFR Part 80 to require refiners, distributors, and retailers to provide the Agency, upon request, information pertaining to compliance with the unleaded gasoline regulations. (39 FR 39988). At the time of proposal refiners, distributors and retailers constituted all classes of persons who were subject to the principal controls on unleaded gasoline. The regulations were amended to include section 80.7 on August 20, 1975. (40 FR 36335). However, this amendment failed to take into account an intervening promulgation. On December 12, 1974, regulations were promulgated subjecting wholesale purchaser-consumers to all provisions of the unleaded gasoline regulations applicable to retailers except for the provision, 40 CFR 80.22(b), requiring retailers to offer for sale unleaded gasoline. (39 FR 43281). When section 80.7 was added a few months later, however, reference to wholesale purchaser-consumers was inadvertently omitted. Therefore, section 80.7 is now being revised to require that wholesale purchaser-consumers provide the Agency, upon request, information related to compliance with the unleaded gasoline regulations.

2. LIABILITY OF BRANDED REFINERS

On December 5, 1974, and December 12, 1974, EPA amended the unleaded gasoline regulations at 40 CFR Part 80 setting forth the liability of gasoline retailers, wholesale purchaser-consumers, resellers, distributors and refiners for gasoline offered for sale that is represented to be unleaded but does not conform with the requirements for unleaded gasoline under 40 CFR 80.2(g). 40 CFR 80.21, 80.22, 80.23. (39 Fed. Reg. 42360; 39 Fed. Reg. 43284). In 40 CFR 80.23(b) (2)(iv), the branded refiner was provided a defense to liability based upon quality control contracts, but the defense did not extend to a refiner where the refiner directly supplied a retail outlet substantially owned or leased by the refiner. The U.S. Court of Appeals for the District of Columbia Circuit, in *Amoco Oil Co., Inc. v. EPA*, 543 F.2d 270,279 (D.C. Cir. 1976) (hereinafter *Amoco II*), held that the language herein being removed from section 80.23(b) (2)(iv) be stricken to permit a con-

tract defense to liability for a refiner in a direct supply situation to a retail outlet owned or leased by the branded refiner.

**3. DEFINITION OF "WAS CAUSED"**

In *Amoco II* the Court endorsed a stipulation of the parties modifying the regulations regarding the burden of proof that a refiner has to meet to establish a defense to liability under 40 CFR 80.23(b)(2)(ii) through (vi). 543 F. 2d at 273n.8. Section 80.23(b) is accordingly being revised by the addition of section 80.23(b)(2)(viii) defining the words "was caused" as used in subparagraphs (ii) through (vi) to conform with the agreed upon language.

**4. GENERAL**

The amendment to section 80.7 is intended to correct an oversight in the promulgation of that section. The amendments to section 80.23 are necessary under judicial decision. Therefore, the Agency finds good cause to promulgate these amendments without prior notice and public procedure. The Agency also finds these amendments are not environmentally or economically significant and therefore do not require an Environmental Impact Statement, or an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

40 CFR Part 80 is amended as follows:

1. In § 80.7, paragraph (a), by inserting the words "wholesale purchaser-consumer," between the word "distributor," and the words "or retailer."

2. In § 80.7, subparagraph (a)(1), by inserting the words ", wholesale purchaser-consumer" between the words "to a distributor" and the words "or a retail outlet."

3. In § 80.7, subparagraph (a)(1)(i), by inserting the words ", wholesale purchaser-consumers" between the words "of distributors" and the words "or retail outlets."

4. In § 80.7, by revising subparagraph (a)(2) to read as follows:

**§ 80.7 Requests for information.**

(a) \* \* \*

(2) For any bulk shipment of gasoline represented to be unleaded gasoline received by a retail outlet or a wholesale purchaser-consumer facility within the previous six months, whether by purchase or otherwise, the retailer or wholesale purchaser-consumer shall maintain accessibility to and provide the following information:

- (i) Business or corporate name and address of the distributor.
- (ii) Quantity of gasoline received.
- (iii) Date of receipt.

5. In § 80.7, by revising paragraph (c) to read as follows:

**§ 80.7 Request for information.**

(c) Any refiner, distributor, wholesale purchaser-consumer or retailer shall provide such other information as the Administrator, the Regional Administrator,

or their delegates may reasonably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer and retailer has acted or is acting in compliance with section 211(c) of the Act and the regulations thereunder and shall, upon the request of the Administrator, the Regional Administrator, or their delegates, produce and allow reproduction of any relevant records at all reasonable times. Such information may include but is not limited to records of unleaded gasoline inventory at a wholesale purchaser-consumer facility or a retail outlet, unleaded pump meter readings at a wholesale purchaser-consumer facility or a retail outlet, and receipts providing the date of acquisition of signs, labels, and nozzles required by § 80.22. No person shall be required to furnish information requested under this paragraph if he can establish that such information is not maintained in the normal course of his business.

6. In § 80.23, subparagraph (b)(2)(iv), by deleting the words "and whose assets or facilities are not substantially owned, leased, or controlled by the refiner," immediately following the words "(and not by a reseller)."

7. In § 80.23, by adding a new subparagraph (b)(2)(viii) reading as follows:

**§ 80.23 Liability for violations.**

(b) \* \* \*

(2) \* \* \*

(viii) In subparagraphs (ii) through (vi) hereof, the term "was caused" means that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another.

(Sections 211 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857f-6c, 1857g).)

Dated: August 31, 1977.

DOUGLAS M. COSTLE,  
Administrator.

[FR Doc. 77-26204 Filed 9-8-77; 8:45 am]

**Title 45—Public Welfare**

**CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 177—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION**

Technical Correction—Annual Loan Limits for Health Professions Students Under the Guaranteed Student Loan Program

AGENCY: Office of Education, HEW.

ACTION: Notice.

**SUMMARY:** This technical correction is being issued to clarify the eligibility requirements for health professions schools under health professions student loan provisions of the Guaranteed Student Loan Program. These provisions were published as an interim final regulation in the FEDERAL REGISTER on June 30, 1977 (42 FR 33290).

**EFFECTIVE DATE:** August 5, 1977 (this is the effective date of the provisions of the interim final regulation corrected by this notice).

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Carmody, Jr., Director, Division of Program Development, Office of Guaranteed Student Loans, Bureau of Student Financial Assistance, Office of Education, 7th and D Streets SW., Washington, D.C. 20202 (202-472-2758).

**NOTICE**

An interim final regulation which raises annual loan limits for qualified health professions students under the Guaranteed Student Loan Program (GSLP) was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33290). This interim final regulation allows health professions students attending eligible schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health to borrow up to \$10,000 annually under the existing GSLP. Qualified students attending eligible schools of pharmacy may borrow up to \$7,500 annually under the existing GSLP. The preamble to the interim final regulation states that students who would have been eligible under the Health Professions Guaranteed Student Loan Program (HPGSLP), had the program been in operation, are eligible for the raised health professions loan limits under the GSLP.

This technical correction clarifies that students attending health professions schools located outside the United States, who would not have been eligible to participate in the HPGSLP, are not eligible to receive the higher loan amounts for health professions students under the GSLP. This is in accordance with section 737(1) of the Public Health Service Act, as amended, which states that a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health must be located within the United States in order to be eligible for the HPGSLP (42 U.S.C. 294j).

(Catalog of Federal Domestic Assistance Number 13.460, Guaranteed Student Loan Program.)

Dated: September 1, 1977.

JOHN ELLIS,  
Acting United States  
Commissioner of Education.

Approved: September 1, 1977.

L. DAVID TAYLOR,  
Deputy Assistant Secretary for  
Management, Planning, and  
Technology.

1. 45 CFR 177.12 is corrected by revising paragraph (a)(1)(xv) as follows:

**§ 177.12 Agreements for Federal payments to reduce student interest costs for insured loans.**

(a)(1) \* \* \*

(xv) Authorizes the insurance of up to \$10,000 in the case of a student en-

rolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health located within the United States, and \$7,500 in the case of a student enrolled in a school of pharmacy located within the United States who has satisfactorily completed three years of training.

2. 45 CFR 177.43 is corrected by revising paragraphs (a) (2) and (a) (3) as follows:

§ 177.43 Limitations governing maximum amount of federally insured loans.

(a) \* \* \*

(2) To a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health located within the United States in an amount in excess of \$10,000;

(3) To a student who has satisfactorily completed three years of training and is enrolled in a school of pharmacy located within the United States in an amount in excess of \$7,500; and

[FR Doc 77-26317 Filed 9-8-77; 8:45 am]

#### Title 46—Shipping

##### CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

##### PART 252—OPERATING DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICE

###### Wages Allowable as a Variable Cost

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Part 252 of Title 46, Code of Federal Regulations, which prescribes regulations governing the payment of operating-differential subsidy to operators of bulk cargo vessels engaged in worldwide services is hereby amended. The amendment increases the amount of subsidizable overlap in wages for replacement of crew. The new maximum number of overlap days is three for officers and two for unlicensed personnel. The amendment is being made to reflect the hiring practices and payoff requirements for crew members of bulk cargo vessels.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

James S. Dawson, Jr., Secretary, Maritime Subsidy Board, Washington, D.C. 20230, Tel. 202-377-2188.

Accordingly, § 252.31(e)(1)(ii), Title 46, Code of Federal Regulations (General Order 117) is amended as follows:

§ 252.31 Wages of officers and crews.

(e) Calculation of collective bargaining costs (1) \* \* \*

(ii) Variable costs. Variable costs are all regularly incurred employment costs which are not stated in specific or determinable amounts per time period

since they vary with ship operating experience. Variable costs include but are not limited to:

Payroll taxes.  
Overtime and penalty pay.  
Payments to Master for piloting.  
Transportation expenses and travel allowances.  
Payments to relief officers and crews.  
Lodging allowances.  
Overlap in wages for replacement of crew (maximum of three days for officers and two days for unlicensed personnel).  
Division of wages occasioned by other than a shortage of crew.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

By Order of the Maritime Subsidy Board, Maritime Administration.

Dated: September 6, 1977.

JAMES S. DAWSON, Jr.,  
Secretary,  
Maritime Subsidy Board.

[FR Doc. 77-26277 Filed 9-8-77; 8:45 am]

#### Title 47—Telecommunication

##### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[RM-2243; FCC 77-588]

##### PART 97—AMATEUR RADIO SERVICE Frequencies Available to Amateur Radio Stations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Rules to permit amateur radio operation by amateur stations operating outside the United States and outside the jurisdiction of foreign governments on all frequencies authorized for amateur operation by the International Telecommunication Union. This action is taken in response to complaints that the existing restrictions on such operation are unnecessarily severe.

EFFECTIVE DATE: September 12, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, 202-632-7175, Safety and Special Radio Services Bureau.

SUPPLEMENTARY INFORMATION: In the matter of Amendment of Part 97 of the Commission's Rules concerning the frequencies available to amateur radio stations (RM-2243).

Adopted: August 24, 1977.

Released: September 1, 1977.

1. The Commission has before it petition for rulemaking, RM-2243, submitted by Mr. Max Grossman of Las Vegas, Nev., in accordance with the Administra-

tive Procedure Act, 5 U.S.C. 553(e), and Section 1401 of the Commission's Rules.

2. Petitioner in RM-2243 requests amendment of Section 97.95 of the Rules to permit operation of amateur radio stations licensed by the Commission outside the United States and outside the jurisdiction of foreign governments on all amateur frequency bands between 3.5 MHz and 148 MHz. Section 97.95(b)(2) of the Rules presently limits such operation to amateur frequency bands between 7.0 MHz and 148 MHz when a station is located in International Telecommunication Union (ITU) Region 2. Operation outside the jurisdiction of a foreign government in ITU Regions 1 and 3 is limited to 7.0-7.1 MHz, 14.00-14.35 MHz, 21.00-21.45 MHz, and 28.0-29.7 MHz.

3. Petitioner states that as the number of amateur stations operated on airplanes and ships increases, a greater number of frequencies are needed to accommodate the operations of such stations. It is also alleged that a greater number of available frequencies will result in safer operation of ships and aircraft. A comment supporting the proposals in RM-2443 was submitted by Mr. Norman White of North Hollywood, Calif.

4. We believe the proposals contained in RM-2443 to be meritorious. Section 97.61 of the Rules lists the frequency bands and emissions authorized amateur stations in the United States, which is in ITU Region 2. Section IV of Article 5 of the Radio Regulations of the International Telecommunication Union lists those frequency bands that signatory administrations may allocate to the Amateur Service. We believe there to be no reason why amateur stations operating outside the United States and outside the jurisdiction of foreign governments should be restricted in their operation to the frequency bands listed in Section 97.95 of the Rules. We are therefore amending the Rules to permit amateur operation outside the jurisdiction of a foreign government in ITU Region 2 on all frequency bands listed in Section 97.61 of the Rules. We are also authorizing amateur operation outside the jurisdiction of a foreign government in ITU Regions 1 and 3 on those frequencies listed in Section IV of Article 5 of the ITU Radio Regulations. All operations are subject to the provisions and limitations of the ITU Radio Regulations. Additionally, except for permissible frequency bands, all operation must comply with all other requirements of Part 97 of the Rules.

5. The specific amendments we are adopting are set forth below. As an aid to users of these rules, we are replacing the text of the Note following Section 97.95, which defines ITU Region 2, with a map of the world, outlining graphically each of the three ITU Regions. Because this is a very minor amendment of the Commission's Rules, merely increasing slightly the privileges available to licensees in the Amateur Service, and because adoption of this amendment will have an insignificant impact on amateur licensees and the public-at-large, the Commission

finds, for good cause, that the notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary. This amendment relieves a previously imposed restriction, and its effective date may be immediate under the provisions of the Administrative Procedure Act. Authority for this action is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. Accordingly, it is ordered, That RM-2243 is granted and that Part 97 of the Commission's Rules is amended as set forth in the attached Appendix effective September 12, 1977.

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

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

NOTE:

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended to read, as follows:

1 In § 97.95, paragraph (b) (2) and the Note are amended and new paragraphs (b) (3) and (b) (4) are added, as follows:

§ 97.95 Operation away from the authorized fixed operation station location.

(b) \* \* \*

(2) When outside the jurisdiction of a foreign government, amateur operation may be conducted within ITU Region 2 subject to the limitations of, and on those frequency bands listed in, § 97.61.

(3) When outside the jurisdiction of a foreign government, amateur operation may be conducted within ITU Regions 1

and 3 on the following frequencies, subject to the limitations and provisions of Section IV of Article 5 of the Radio Regulations of the ITU:

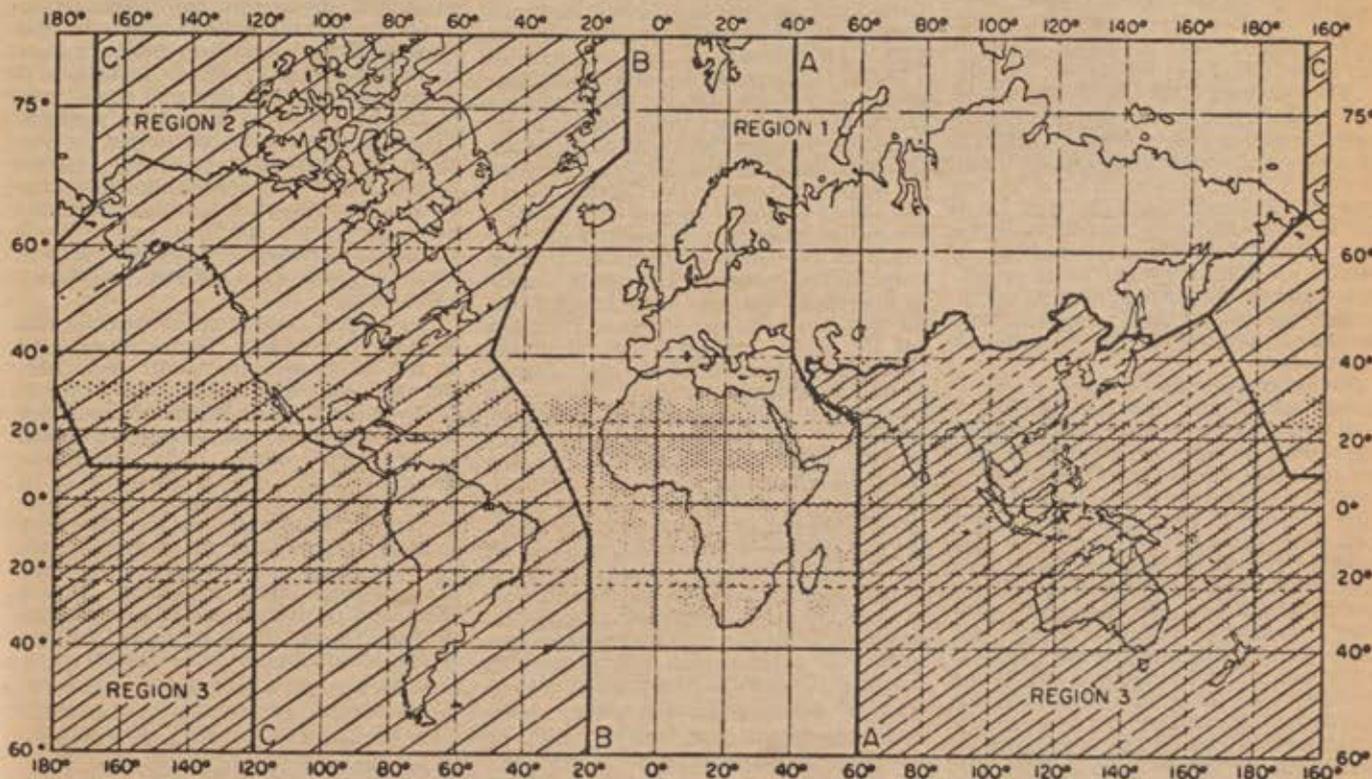
i. Region 1 3.5-3.8 MHz, 7.0-7.1 MHz, 14.0-14.35 MHz, 21.0-21.45 MHz, 28.0-29.7 MHz, 144-146 MHz, 430-440 MHz, 1215-1300 MHz, 2300-2450 MHz.

Region 3 1.8-2.0 MHz, 3.5-3.9 MHz, 7.0-7.1 MHz, 14.0-14.35 MHz, 21.0-21.45 MHz, 28.0-29.7 MHz, 50.0-54.0 MHz, 144-148 MHz, 420-450 MHz, 1215-1300 MHz, 2300-2450 MHz.

ii. Operation on amateur frequency bands above 2450 MHz may be conducted subject to the limitations and provisions of Section IV of Article 5 of the Radio Regulations of the ITU.

4. Except as otherwise provided, amateur operation conducted outside the jurisdiction of a foreign government shall comply with all requirements of Part 97 of this Chapter.

CHART OF ITU REGIONS



[FR Doc 77-26189 Filed 9-8-77; 8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

## PART 20—MIGRATORY BIRD HUNTING

## Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY Fish and Wildlife Service, Interior

## ACTION Final rule

**SUMMARY** This rule prescribes final frameworks that is the outer limits for dates and times when shooting may begin and end and the number of birds which may be taken and possessed for late season migratory bird hunting regulations. The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to establish late season migratory bird hunting regulations for the 1977-78 season.

EFFECTIVE DATE September 8, 1977

FOR FURTHER INFORMATION CONTACT

John P. Rogers, Chief Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-343-8827.

**SUPPLEMENTARY INFORMATION** The Migratory Bird Treaty Act of July 3, 1918, 40 Stat. 755, 16 U.S.C. 703 et seq. as amended authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, lesser sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and special falconry seasons. Late seasons include the general waterfowl seasons, special seasons for scaup and goldeneyes, extra scaup and blue-winged teal in regular seasons, most sandhill crane seasons in the Central Flyway, coots, gallinules, and snipe in the Pacific Flyway, and special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in early March, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, a supplemental proposed rulemaking is announced in the FEDERAL REGISTER. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the FEDERAL REGISTER, and become effective upon publication.

On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits, and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977-78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977-78 season. On July 15, 1977, the Service announced in a fifth document in the FEDERAL REGISTER (42 FR 36495) the availability of a draft environmental assessment on shooting hours and allowed a 10-day public comment period. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a

sixth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977-78 seasons from which States selected early season dates and daily bag and possession limits for the 1977-78 season. On August 9, 1977, the Service published in the FEDERAL REGISTER (42 FR 40211) a seventh document in the series consisting of final rulemaking dealing specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977-78 season. On August 15, 1977, the Service published in the FEDERAL REGISTER (41145) an eighth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for late season migratory bird hunting regulations from which, when finalized, States could select season dates, shooting hours, and daily bag and possession limits for the 1977-78 season. On August 18, 1977, the Service published in the FEDERAL REGISTER (42 FR 41636) a ninth document in the series consisting of final rulemaking amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours, and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. This document is the tenth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1977-78 late hunting seasons on certain migratory game birds.

On June 21, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 29345; June 8, 1977) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, lesser sandhill (little brown) cranes in North Dakota and South Dakota, and common (Wilson's) snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways, and special sea duck seasons in the Atlantic Flyway. Statements or comments were invited. On August 2, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 34897, July 7, 1977) to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; lesser sandhill (little brown) cranes in Colorado, New Mexico,

Oklahoma, Texas, Montana, and Wyoming; common (Wilson's) snipe in the Pacific Flyway; and special falconry regulations. Statements or comments were invited.

#### REVIEW OF PUBLIC COMMENTS AND THE SERVICE RESPONSE TO SAME

The public was given several opportunities to comment on regulations being proposed for late seasons during 1977-78. Altogether, 662 written public comments were received by August 4, 1977, and given consideration. The Service advised that interested persons should respond by May 18, 1977, to the initial regulatory proposals shown in the FEDERAL REGISTER dated March 10, 1977, on page 13313. One hundred twenty-eight comments were received. A supplemental proposed rulemaking appeared in the FEDERAL REGISTER on May 25, 1977 (42 FR 26669), and the public was given until July 14, 1977, to submit comments. Twenty-nine comments were submitted. The public was notified in the FEDERAL REGISTER on July 15, 1977 (42 FR 36495), that a draft environmental assessment on shooting hours for migratory game birds was available for review and comment, and that comments would be considered if received by July 25, 1977. Four written comments on the draft environmental assessment were received by July 25, 1977. Five additional written comments were received between July 26 and August 1 after the close of this comment period but were, nevertheless, considered in preparing the final environmental assessment for proposed shooting hours regulations.

Many of the earlier comments dealt with the early season regulations, and these were tabulated and analyzed in the FEDERAL REGISTER dated July 5, 1977, on page 34306, and July 22, 1977, on page 37552. Many letters contained statements on several topics. Some regulatory proposals, such as shooting hours, pertained to both early and late season proposals. Some respondents submitted more than one statement during the overall comment period. Also, some of the comments addressed topics outside the scope of the regulatory proposals, and, in this regard, were irrelevant.

An additional 364 comments regarding late season regulations were received from August 4, 1977, through the close of the public comment period on August 25, 1977. Most of these were from individuals commenting on the proposed shooting hours. Eight other comments, all favorable, were received regarding the overall proposed frameworks for late hunting seasons. These were from 6 State conservation agencies, 1 organization, and 1 individual. One organization recommended against the proposed shooting hours and continuation of the point system; urged greater restrictions for the black duck and reductions in daily bag limits for coots, mergansers, and sea ducks; proposed elimination of whistling swan and sandhill crane seasons; and opposed the special falconry seasons, alleging that falconry threatens hawk populations by encouraging nest robbing. In

previous FEDERAL REGISTER documents the Service commented on these issues raised by the same organization.

Of the 355 comments received on shooting hours, 189 were in favor of one-half hour before sunrise to sunset shooting while 164 were opposed to these hours. Two other comments were opposed to more restrictive hours which one State had selected. In general, those favoring retention of the one-half hour before sunrise shooting period noted that this was a time of day when waterfowl were active, hunting success was good, and that these shooting hours were not detrimental to waterfowl or other birds. In contrast, opponents to the one-half hour before sunrise shooting period alleged that flying birds could not be identified by species in the pre-sunrise period, and that the shooting of protected or endangered species was contrary to purposes of the Migratory Bird Treaty Act and the Endangered Species Act. Very few comments, either favoring or opposing the proposed shooting hours, provided any data or new information. The Service notes that a final environmental assessment on shooting hours was completed on August 1, 1977 (42 FR 40211), and made available to the public.

The most extensive comments on shooting hours were submitted by Defenders of Wildlife (hereinafter Defenders) in a letter to the Director dated August 25, 1977. They were in the form of a detailed criticism of the Environmental Assessment on Proposed Shooting Hours Regulations completed by the Service on August 1, 1977. Defenders' comments reiterated and expanded upon points made in their July 30, 1977, comments on a draft of this environmental assessment. The Service response to Defenders' July 30 comments is discussed in detail in the August 9, 1977, FEDERAL REGISTER (42 FR 40211). As noted there, the assessment was modified and expanded in a number of ways in response to these and other comments.

In their August 25, 1977, comments Defenders reiterated the view that the assessment is inadequate because (1) it does not assess, in a satisfactory way, the impact of shooting hours on populations of protected species, (2) lacks information on the effects of available light on the waterfowl identification abilities of hunters, and (3) relies on data gathered for purposes other than an evaluation of shooting hours. Specific points and assertions made by Defenders in connection with these three general points, and Service responses to them are discussed below in the order in which they were presented in Defenders' August 25, 1977, letter. The Service makes special note that in these responses a distinction is made between protected species and endangered species. This is appropriate and necessary because of the Service's additional statutory responsibilities for endangered and threatened species above and beyond those for migratory birds generally. Therefore, references to protected species in the following Service responses do not include en-

dangered species. Where the responses concern endangered species, they are specifically mentioned.

Defenders asserts that the information used by the Service is 5 to 10 years out of date, no new information is supplied, and no plans are set forward for gathering new information.

The Service believes that the information presented in the assessment is modern, up to date, and fully pertinent to the questions at hand. Much of the information is new in the sense that it has only recently been obtained from on-going field studies. Much of the remainder is new in the sense that it is derived from analyses not previously conducted and made available for use. Defenders apparently refers chiefly to the hunter performance survey. The Service believes that these data cannot be considered out of date simply because they were gathered during an eight-year period ending five years ago. They measure attributes of hunting that are likely to change slowly and there is no reason known to the Service to consider them obsolete. In regard to research, the assessment was viewed as a vehicle for analyzing and presenting currently available information on shooting hours rather than discussing future research plans.

Defenders asserts that only 320 hunts per year were observed in hunter performance observations in seasons with pre-sunrise shooting hours; that this represents only a few hunts per day of an activity involving millions of citizens throughout the nation; and that the observations were gathered according to convenience rather than scientific procedures. Defenders objects that the sample is too limited for conclusions to be drawn, and the results contribute relatively little to the problem at hand.

The Service notes that the 320 hunts per year cited by Defenders represents less than half of the annual sample. It is not appropriate to consider only hunts that were observed in seasons with pre-sunrise shooting hours because observations made in seasons with shooting hours beginning at sunrise also contain information relevant to the 90-minute shooting hour period that is contested. The 8 years of data used in the study consisted of 5,417 hunts by 11,562 hunters. These, rather than the number of hunts per year, are the relevant figures on sample size. Further, the reference to "millions of citizens" in connection with the number of hunts observed per day exaggerates the actual situation. The number of waterfowl hunters in the U.S. is on the order of 2 million, only a portion of which are in the field on any given day. The observations were not gathered on the basis of convenience but, on the contrary, were in line with an effort to obtain the best possible estimates of the attributes of an activity that is distributed in a highly uneven and non-random manner, i.e., the observations were focused on those places where waterfowl and waterfowl hunters concentrate in large numbers. These are the places where it was determined that data

could best and most usefully be gathered. As stated previously in 42 FR 40211 (August 9, 1977), the Service believes that the sample was actually quite large and the data very strong. The sample size is large enough to draw reasonable conclusions regarding the extent to which any shooting of protected or endangered species occurs, and contributes importantly to an understanding of the impact of shooting hours on these species.

Defenders asserts that they have little confidence in the hunter performance surveys because observers cannot check the accuracy of their observations with bag checks if they are (1) uncertain as to who shot a given bird, (2) uncertain if one or more birds were retrieved or not, and (3) uncertain as to the numbers and kinds of birds taken by multiple shots.

The Service considers item 1 to be irrelevant to the analysis since the important information is whether or not a particular bird was shot by the hunters under observation. As noted previously in 42 FR 40211 and on page 15 of the assessment, in cases where there were questions such as those in items 2 and 3, the observations were not used in this analysis. Nine percent of the hunts observed to completion were rejected on the basis of such selection criteria.

Defenders objects that no information is provided on where the data were obtained and what protected birds could be found in those areas.

The Service notes that it was pointed out on page 13 of the assessment that observations were made throughout all or part of the 8-year period in all of the 48 conterminous States. While each of the individual observation records identifies the specific area where the observation was made, it was not considered necessary or desirable to describe the data base in such minute detail in the assessment. The assessment was not intended to provide such an area by area analysis but instead to provide a clear, concise, and understandable analysis of the relationship of shooting hours to the nationwide kill of protected and endangered species. General information on populations and distribution of the protected and endangered species identified as being of most concern in connection with hunting in general and shooting hours in particular was provided in the assessment. This is discussed in the section on species evaluations for protected species, and in the appendices for endangered species. As noted on page 24 in the assessment, such information is often not precise. Nevertheless, the Service believes that it is adequate for an understanding of the impact of shooting hours on the species in question.

Defenders asserts that most if not all of the hunter performance surveys were conducted on national wildlife refuges where hunters know law enforcement is more thorough, and this may have biased the data as hunters may behave differently under such circumstances.

The Service notes that the majority of the observations were made by State

biologists and law enforcement officers on areas other than national wildlife refuges.

Defenders asserts that the selection of hunter observation sites was non-random and subjective and that a randomizing procedure should have been used to obtain statistically valid data. The Service notes that waterfowl hunting is not uniformly distributed but is focused on those places where waterfowl concentrate and are accessible to hunters. Consequently, the Service believes that the way the data were obtained does not compromise the validity of the observations.

Defenders asserts that data presented in the assessment shows that the highest incidence of shooting protected waterfowl and protected non-waterfowl occurred during the shooting hours contested and that this identifies a problem which the Service failed to treat adequately in the assessment.

The Service notes that the assessment shows only a fraction of one percent of the birds killed throughout the entire day consisted of protected waterfowl and protected non-waterfowl, and only a fraction of this small percentage occurred during the contested 90-minute period. This is applicable to regular waterfowl hunting seasons with shooting hours that begin either one-half hour before sunrise, or at sunrise. The Service believes that this was adequately discussed and considered in the sections on Environmental Impacts of the Proposed Action and Alternatives to the Proposed Action.

Defenders asserts that the analysis of data on page 23 of the assessment excludes protected waterfowl and non-waterfowl for which hunting was allowed at other times of the year.

The Service finds that this assertion is not correct and that the data discussed on page 23 include the birds in question.

Defenders asserts that birds killed in violation of bag limits or point totals, which are not included in Tables 4-6 in the assessment but which are considered elsewhere should have been lumped with the other data.

The information on ducks shot in excess of the daily bag limit was added to the assessment in response to Defenders' comments of July 30, 1977, on the draft assessment. The Service decided to present it separately to insure that it would not be overlooked. Further, the Service believes that the information in question is different in nature than that presented in Tables 4-6 and should not be combined with other data. As pointed out on page 22 of the assessment, ducks shot in excess of the daily bag limit were most commonly shot later in the day than one hour after sunrise. This is consistent with other studies of harvest as well as the information presented in the assessment showing that the average daily bag per hunter is on the order of one or two birds. Thus, hunters seldom are in an over-bagging situation during the contested shooting hours.

Defenders asserts that the assessment clearly shows a potential problem with the shooting of canvasbacks and redheads during sunrise and sunset portions of the day but the assessment balks at probing further into the impacts.

The Service believes that the impacts on canvasbacks and redheads are adequately discussed and explained in the context of information presented on pages 21, 22, and 24-25 in the assessment.

Defenders asserts that for most of the species considered the sample sizes are extremely small and a change in 1 or 2 individual birds killed can make a major difference in the percentages involved.

The Service notes again that the sample on which this study is based is not small but is actually quite large. It is the extent to which protected species are killed that is small because of relatively infrequent occurrence. An increase of 1 or 2 individuals per species would not change this. This is an attribute of the sample, not the sample itself, and it is important to recognize this distinction.

Defenders asserts that the Service should have conducted studies on the amount of light necessary to make the identifications needed to distinguish species because the assessment does not demonstrate that protected species are not being harmed by hunting and the evidence is at best inconclusive.

The Service notes that this point was discussed at some length in 42 FR 40211 in responding to comments received on the draft environmental assessment. At that time it was noted that the Service decided not to undertake additional studies on the amount of light necessary to make identifications during early morning and late afternoon hunting unless the assessment indicated that there was a significant problem associated with hunting at these times, or at other times of the day, that resulted in an adverse impact on the populations of protected waterfowl and non-waterfowl species or endangered species. In light of the inconsequential take of protected species during all hours of the day, it was decided that further studies on illumination in relation to species identification were unnecessary. It is therefore the view of the Service that the assessment complies with the Court's directive.

Defenders refers to Objective No. 3 in the discussion of the role of regulations in page 2 of the assessment which reads as follows: To avoid the taking of endangered or threatened species so that their continued existence is not jeopardized and their conservation is enhanced. Defenders asserts that the important concept of restoration of endangered and threatened species, or species that have been depleted significantly, is not mentioned in the goal.

The Service notes that the concept referred to above is included in the meaning of the term their conservation is enhanced and is so understood by the Service. The definition of conservation as set forth in the Endangered Species Act of 1973 includes the concept of restoration. It is the Service's view that the mi-

gratory bird hunting regulations, including shooting hours, currently proposed are consistent with and supportive of programs to enhance the conservation of those protected or endangered species whose numbers are depleted and the management objective is to increase them. For further information on these programs in relation to the present discussion, readers are referred to the discussions of endangered species in the appendices to the assessment. It is the view of the Service that these programs are effectively enhancing the conservation of these species, and that hunting regulations set in consonance with them are contributing to that enhancement. The programs for whooping cranes and the Aleutian Canada geese provide examples of successful programs and show the inter-relationship of different actions, including appropriate hunting restrictions. No need is presently discerned for new and different types of regulatory restrictions, such as a broad application of more restrictive shooting hours, which go beyond those types of regulatory restrictions already in use and found to be effective, in order to continue the success of these and similar programs.

#### CORRECTION IN OHIO ZONING

In the August 15, 1977, FEDERAL REGISTER, on page 41152, the Service proposed zoned hunting seasons on ducks, coots and mergansers and described the zones for Ohio as follows *North Zone*—That portion of Ohio north of U.S. Highway 30 North. *South Zone*—The remainder of Ohio. The Service has been notified by Ohio that it erred in the highway number designation when it submitted its zone descriptions to the Service. In the final regulations frameworks the Service has changed the zone descriptions for Ohio to read as follows *North Zone*—That portion of Ohio north of Interstate Highway 70 to the Ohio, Michigan, Ontario, Pennsylvania boundary in Lake Erie. *South Zone*—That portion of Ohio south of Interstate Highway 70 to the Ohio River. This change is intended to correct the zone description error.

#### STEEL SHOT REGULATIONS

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21614) final regulations regarding areas in the Atlantic and Mississippi Flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1977. Subsequently, the Service proposed in the FEDERAL REGISTER (42 FR 33354, June 30, 1977) that these requirements would apply only to 12-gauge shotshells, and final rulemaking on this proposal was published in the FEDERAL REGISTER on August 3, 1977 (42 FR 39106). The intended effect of establishing these steel shot regulations is to reduce the number of deaths of waterfowl caused by ingesting spent lead pellets. The regulations appear under 50 CFR, § 20.21 and § 20.108, and will also be summarized in the Service's regula-

tions leaflets to be published late this summer.

#### ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241). The final environmental assessment on shooting hours (42 FR 40211; August 9, 1977) supplements the discussion on shooting hours in FES 75-54.

#### COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out . . . do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. Likewise, the biological opinion concluded that the proposed regulations were not contrary to, and did not undermine the Service's obligation to conserve endangered or threatened species. The consideration of section 7 was described in more detail in the FEDERAL REGISTER dated July 22, 1977, on page 37554. It should be noted that much of the discussion and evaluation of shooting hours in the shooting hours environmental assessment related to protected or endangered species. No evidence was found that the proposed shooting hours were detrimental to any endangered or threatened species.

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with section 7 of the Endangered Species Act. Five endangered species were considered in a threshold examination completed on August 22, 1977. These included the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite (*Rostrhamus sociabilis plumbeus*), bald eagle (*Haliaeetus leucocephalus*), Arctic peregrine falcon (*Falco peregrinus tundris*) and the American peregrine falcon (*F. p. anatum*). The threshold examination report reviewed and evaluated the population and habitat status and trends of these endangered species; factors affecting their status and welfare; management programs under way or planned to enhance the status of the species; and

the impacts, if any, of the proposed late season hunting regulations. It was concluded that no likelihood exists that the late season migratory game bird regulations for 1977-78 will jeopardize the continued existence of any of the five endangered species, or destroy or adversely modify their critical habitat or habitats that may in the future be determined to be critical for them. Furthermore, it was concluded that the Service has taken all reasonable measures to insure that these regulations are compatible with the conservation programs being carried out for each of these species. The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered, and invoked when justified, for the protection of endangered species.

The proposed migratory bird hunting regulations for late seasons were also evaluated as they relate to the Mexican duck (*Anas diazi*) and the whooping crane (*Grus americana*). A biological opinion on these endangered species was issued in a report dated August 22, 1977. This opinion concluded that the proposed regulations were unlikely to jeopardize the continued existence of either species, or destroy or adversely modify habitats that have been proposed as critical habitat or that may in the future be determined to be critical for either species.

However to insure that programs administered by the Service are used to further the purposes of the Endangered Species Act, the Service intends to initiate new investigation and management programs for each species. These are described in detail in the biological opinion, and summarized here.

New efforts for the Mexican duck include projects to further determine the status, distribution, and genetic purity of Mexican-like ducks in the United States determine the proper taxonomic classification of the Mexican duck; and increase public information and education programs for the species. In addition, the Service intends to prohibit the hunting of all ducks in all or portions of 13 southwestern counties in the range of the Mexican duck. These include Cochise County in Arizona, Catron, Dona Ana, Hidalgo, and Luna Counties in New Mexico and Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, and Reeves Counties in Texas. The closure boundaries in these three States are fully described in the framework text. Hunting seasons for migratory game birds other than ducks are unaffected by these closures.

Additional management efforts for the whooping crane particularly in the Bosque del Apache National Wildlife Refuge area of New Mexico, were also specified. Whooping cranes of the Grays Lake transplant program winter in the area where limited snow goose hunting is permitted. Changes in the snow goose hunt conducted on the refuge include expanding the hunter education and testing program, shifting certain refuge fields to closed or open to hunting status, improving the hunter communications

system operative while hunting is under way, relocating some blinds, expanding law enforcement efforts, increasing food supplies, and changing the schedule of hunting days. The Service will invoke an emergency closure on snow goose hunting on the refuge should such action become necessary. Emergency closures elsewhere for the Grays Lake and the Aransas whooping crane flocks will also be invoked if necessary. Such emergency closure will be based upon the proportion of the population involved, degree of risk of hunter-induced mortality, and extent of crane redistribution.

The Service devoted more than 500 hours to consideration of the early season regulations in the section 7 consultation process this year, and in excess of 750 hours were devoted to the late season regulations. In addition, the review process involved the appropriate endangered species recovery teams; consultations with employees of various State conservation agencies, other federal agencies, and universities; and field trips to potential problem areas.

The Service's biological opinions and threshold examination reports resulting from consultation under section 7 are available for public inspection in the Office of Endangered Species, U.S. Fish and Wildlife Service, Room 1100, 1612 K Street NW., Washington, D.C. 20240, or the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 2243, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. Copies may also be supplied by mail upon request.

#### DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

#### REGULATIONS PROMULGATION

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, July 5, July 15, and August 15, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season dates, shooting hours, and special closures from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, the Service will publish in the FEDERAL REGISTER final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States for the 1977-78 season.

#### FINAL REGULATIONS FRAMEWORKS FOR 1977-78 LATE HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS.

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which states may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and special extended falconry seasons. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions. For the guidance of State conservation agencies, these frameworks are summarized below.

#### GENERAL

States may split their seasons for ducks or geese into two segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are 1/2 hour before sunrise until sunset, except that September teal season shooting hours are sunrise until sunset.

States in the Atlantic, Mississippi, and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1977, and January 31, 1978, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1977.

4. These areas must be described and delineated in State hunting regulations.

#### OR

As an alternative, States in the Atlantic, Mississippi, and Central Flyways,

except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option. Maine may not select the point system with the State zoning option.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

#### ATLANTIC FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select open seasons on ducks, coots, and mergansers of (a) 45 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks, or (b) 45 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks. Under either option (a) or (b), a 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day.

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily

bag and possession limits established for the flyway in 1977 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra blue-winged teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5 only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and golden-eye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. The West Zone will be permitted the full number of days offered under options (a) or (b), with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the West Zone. The North Zone and the South Zone must take a 5-day reduction in season length under either option, with or without the Wednesday opening, with shooting hours beginning at noon on opening day. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus birds, shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows. The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridge-water, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine may be divided into two zones (North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected. Both zones will be permitted the full number of days offered under options (a) or (b) with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the South Zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, if offered, shall be applicable, but the 16-day special scaup season will not be allowed.

The Maine zones are defined as follows: North Zone—Game Management Zones 1, 2 and 3. South Zone—Game Management Zones 4 through 8.

As an alternative to conventional bag limits for ducks, a 45-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. A 50-day season may be selected provided the season is opened on a Wednesday with shooting at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each, in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each, the blue-winged teal, green-winged teal, pintail, gadwall, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all

other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1977, and January 20, 1978, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interest Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1978. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina, South Carolina, and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1977, to January 20, 1978, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1977, and January 20, 1978, concurrent with either the regular waterfowl season or the Canada goose season, States in the Atlantic Flyway may select 60 day seasons on snow geese (including blue geese); the daily bag and possession limits are 2 and 4 geese, respectively.

For snow geese (including blue geese) the Director, U.S. Fish and Wildlife Service, shall close the season within 48 hours should such closure be necessary to avoid excessive harvest.

The season is closed on Atlantic brant.

#### MISSISSIPPI FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select concurrent 45-day seasons on ducks, coots, and mergansers. The daily

bag limit for ducks is 5, and may include no more than 2 mallards or 2 black ducks, or one of each, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 4 mallards or 4 black ducks, or 4 in the aggregate, and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winnebago and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 45-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: Except

in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each, the pintail, blue-winged teal, cinnamon teal, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold, then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens on November 5, 1977. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake

Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio and Missouri may select hunting seasons on ducks, coots and mergansers by zones described as follows.

#### MICHIGAN

North Zone—The Upper Peninsula.  
South Zone—The Lower Peninsula.

#### ILLINOIS

North Zone—St. Clair, Clinton, Marion, Clay, Richland and Lawrence Counties and all counties to the north.  
South Zone—The remainder of Illinois.

#### INDIANA

North Zone—That portion of Indiana north of State Highway 18.  
South Zone—The remainder of Indiana.

#### OHIO

North Zone—That portion of Ohio north of Interstate Highway 70 to the Ohio, Michigan, Ontario, Pennsylvania boundary in Lake Erie.  
South Zone—That portion of Ohio south of Interstate Highway 70 to the Ohio River.

#### MISSOURI

North Zone—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21, along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau.  
South Zone—The remainder of Missouri.

Within each State (1) The season must be continuous in both zones. (2) The same bag limit option must be selected for both zones, and (3) if a special scaup season is selected, it shall not begin until after the latest season closing date in the State.

Between October 1, 1977 and January 20, 1978, States in this Flyway except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 1, 1977, and February 14, 1978, Louisiana may select 70-day seasons on snow including blue and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. The season on Canada geese is closed in Louisiana.

In Minnesota, in the (a) Lac Qui Parle Zone—the season on Canada geese closes after 45 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The quota zone is that area encompassed by a boundary described as follows: beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift

County, then south on C.S.A.H. 17 and C.S.A.H. 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevideo.

(b) Southeastern Zone (same as description in 1971)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Iowa, the season for Canada geese may extend for 45 consecutive days. The daily bag and possession limits are 2 Canada geese.

In Missouri, in the: (a) Swan Lake Zone (same description as in 1971)—the season on Canada geese closes after 45 days or when 25,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1977, and January 20, 1978, with a daily bag limit of 2 Canada geese or 2 white-fronted geese or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada geese and 2 white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 35,000. The daily bag limit is 1 Canada goose, 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese, except that in the Horicon Zone the possession limit for Canada geese is 1. In the Horicon Zone and the East Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of County Highway N and State Highway 175 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S to its intersection with County Highway E, then northerly on County Highway E to its intersection with County Highway N,

then easterly on County Highway N to the point of beginning.

The East Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then northerly on State Highway 175 to its intersection with County Highway N, then westerly on County Highway N to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway S, then westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with U.S. Highway 16, then northwesterly on U.S. Highway 16 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, the harvest of Canada geese is limited to 35,000, with 29,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1978, or until the Zone's quota of 29,000 birds is reached, whichever occurs first.

In Michigan, in the (a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Canada Goose Management area—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada and 2 white-fronted geese. From November 15 through December 9, the daily bag limit will be 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The Management Area is encompassed by a boundary described as follows: beginning at the junction of

State Highway M-21 and State Highway M-53 in Lapeer County, then south on State Highway M-53 to its junction with Interstate Highway 94, then west on Interstate Highway 94 to its junction with Interstate Highway 75, then south on Interstate Highway 75 to its junction with Gibraltar Road, then west on Gibraltar Road to Flat Rock, then west on West Carlton, Oakville and Waltz Roads to the junction with Rawsonville Road, then north on Rawsonville Road to Willow Road, then west on Willow Road to U.S. Highway 23, then south on U.S. Highway 23 to State Highway M-50 in Dundee, then west on State Highway M-50 to State Highway M-52, then south on State Highway M-52 to State Highway M-34, then west on State Highway M-34 to U.S. Highway 127, then north on U.S. Highway 127 to Interstate Highway 69, then north and east on Interstate Highway 69 to State Highway M-21 in Flint, then east on State Highway M-21 to the point of beginning.

(c) Remainder of the State—the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada goose and 2 white-fronted geese.

In Ohio, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Indiana, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, except in Posey County where the daily bag limit on Canada geese is 2, the possession limit is 2 Canada and 2 white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone, the harvest of Canada geese is limited to 15,000. This zone is described as follows: a boundary beginning at the northwest city limits of Wickliffe in Ballard County to the middle of the Mississippi River; then north along the Mississippi River to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; then along the county line south to State Road 358; then south along State Road 358 to its junction with U.S. Highway 60 at LaCenter; then southwest along U.S. Highway 60 to the northeast city limits of Wickliffe.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

In Alabama, the season is closed on all geese in the Counties of Chambers, Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Arkansas, the Canada goose season will be concurrent with, and the same length as, the duck season, with a daily bag limit of 1 Canada goose and a possession limit of 2 Canada geese, except that the Canada goose season is closed in that portion of the State east of a line described as follows: Beginning at the junction of State Highway 1 and the Arkansas-Missouri border, then south along State Highway 1 to the junction of U.S. Highway 65 at McGehee, then south along U.S. Highway 65 to the junction of U.S. Highway 165, then south along U.S. Highway 165 to the Arkansas-Louisiana border.

When it has been determined that the quota of Canada geese allotted to Illinois and Wisconsin, to the Swan Lake Zone of Missouri, to the Lac Qui Parle Zone of Minnesota, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky Counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

#### CENTRAL FLYWAY

Seasons on ducks (including mergansers) and coots may be selected between October 1, 1977, and January 22, 1978, inclusive, in Central Flyway States and portions of States, except in designated areas of New Mexico and Texas closed to duck hunting for the protection of the Mexican duck.

The basic season may include no more than 55 days and bag limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 hooded merganser, 2 wood ducks and 1 female mallard, and the possession limit may include no more than 2 hooded mergansers, 4 wood ducks and 2 female mallards.

The daily bag and possession limits on coots are 15 and 30, respectively.

The daily bag and possession limits, except in closed areas, may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81, that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—the Counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

The season is closed on the Mexican duck. In order to provide greater protection to the endangered Mexican duck, all duck hunting is prohibited in designated portions of New Mexico and Texas. These areas are described as follows:

That portion of New Mexico lying south and west of the boundary described as follows:

Interstate Highway 10 from the Arizona-New Mexico border east to Deming, north on U.S. Highway 180 to State Highway 26, east on State Highway 26 to Interstate Highway 25, south on Interstate Highway 25 to Las Cruces, and south on Interstate Highway 10 to the New Mexico-Texas border.

Also, the Tula Rosa Creek Area defined as beginning where State Highway 12 crosses the Continental Divide, and extending westward along State Highway 12 to Apache, and encompassing the area one mile south of the above boundary, all in Catron County.

That portion of Texas lying west and south of the boundary described as follows:

Interstate Highway 10 from the Texas-New Mexico border south and east to Fort Stockton, U.S. Highway 385 from Fort Stockton south to the boundary of the Big Bend National Park, and southwesterly along the west boundary of the Big Bend National Park to the U.S.-Mexico border along the Rio Grande.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days. Provided, That the last 23 days of such season must begin on or after December 12, 1977. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 55 days.

The point values for species and sexes taken in the Central Flyway are as follows: Except in closed areas, canvasbacks count 100 points each; female mallards, wood ducks, redheads (except in closed areas) and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup,

pintails, gadwalls, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the Counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

Between October 1, 1977, and January 22, 1978, States in this Flyway may select goose seasons as follows:

(a) For the Central Flyway portions of Montana, Wyoming and Colorado, States may select seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

(b) For the Central Flyway portion of New Mexico and that portion of Texas west of U.S. Highway 81, States may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

(c) North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow and blue) geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limit may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 13, 1977.

In South Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted

geese or 1 of each. The season on dark geese may not extend beyond November 27, 1977, in the Counties of Buffalo, Brule, Campbell, Charles Mix, Corson, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully and Walworth.

In Nebraska, the season on dark geese may not extend beyond December 18, 1977. The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S. Highway 183, prior to November 21, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas, the season on Canada and white-fronted geese may not extend beyond December 25, 1977. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma Counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese and 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 64 consecutive days commencing no earlier than November 12, 1977, with a daily bag limit of no more than 1 Canada and 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming may select a lesser sandhill (little brown) crane season with daily bag and possession limits of 3 and 6 respectively, within an

October 1, 1977-January 31, 1978, framework as follows

(a) 37 consecutive days from October 1 through November 6, 1977, in the Central Flyway portion of Colorado except the San Luis Valley area

(b) 93 consecutive days between October 22, 1977, and January 31, 1978, in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 26, 1977, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days to open with the goose season in Phillips County, Montana.

(e) 30 consecutive days beginning on or after October 8, 1977, in Platte and Goshen Counties, Wyoming.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Gray's Lake or Arkansas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

#### PACIFIC FLYWAY

Between October 1, 1977, and January 22, 1978, concurrent 93-day season on ducks, mergansers, coots, and gallinules may be selected in Pacific Flyway States and portions of States, except the Columbia Basin Area and the designated portion of Arizona closed to duck hunting for protection of the Mexican duck. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The season is closed on the Mexican duck. In order to provide greater protection to the endangered Mexican duck, all duck hunting is prohibited in a designated portion of Arizona. This area is described as follows:

That portion of Cochise County, Arizona, lying south and east of the boundary described as follows:

Interstate Highway 10 from the New Mexico-Arizona border west to Benson, south on U.S. Highway 80 to the San

Pedro River, and south along the San Pedro River to the U.S.-Mexico border

The daily bag possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

For that portion of California lying south of the Tehachapi Mountains and west of the Colorado River Area (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

Waterfowl season dates for Clark and Lincoln Counties in Nevada and the Colorado River Area of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Tule Lake Area of California must coincide with season dates selected by Oregon for waterfowl.

In the Columbia Basin Area of Washington, Oregon and Idaho, between October 1, 1977, and January 22, 1978, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently. The daily bag limit is 7 ducks and the possession limit is 14 ducks, to include no more than 2 redheads or 2 canvasbacks or 1 of each daily, and no more than 4 singly or in the aggregate in possession. The bag limit on mergansers is 5 daily and 10 in possession, of which no more than 1 daily and 2 in possession may be hooded mergansers. The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Between October 1, 1977, and January 22, 1978, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except the Columbia Basin Area. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 snow geese and 3 geese of the dark species (Canada and white-fronted); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose for which no hunting is allowed:

(1) In the Counties of Del Norte and Humboldt there will be no open season on Canada geese during the 1977-78 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: Beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then east-

erly on the Tisdale By-pass to where it meets O'Banion Road, then easterly on O'Banion Road to State Highway 99, then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County, then westerly on the Gridley-Colusa Highway to its junction with the River Road, then northerly on the River Road to the Princeton Ferry, then westerly across the Sacramento River to State Highway 45, then northerly on State Highway 45 to its junction with State Highway 162, then continuing northerly on State Highway 45-162 to Glenn, then westerly on State Highway 162 to the point of beginning in Willows; the hunting season for taking Canada geese will not open until December 15, 1977 and will then continue to the end of the 1977-78 waterfowl hunting season.

3. In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5, then southerly on Interstate 5 to the junction of State Highway 152 in Merced County, then easterly on State Highway 152 to the junction of State Highway 59, then northerly on State Highway 59 to the junction of State Highway 99 at Merced, then northerly and westerly to the point of beginning; the hunting season for taking Canada geese will close on November 24, 1977 at sunset.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution pattern or other circumstances justify such actions.

In the Washington Counties of Adams, Franklin, Grant, Walla Walla, Lincoln, Douglas, Yakima, Benton, Klickitat, and Kittitas, and in the Oregon Counties of Morrow, Wasco, Sherman, Gilliam, Umatilla, Union and Wallowa, the goose season must run concurrently with the Columbia Basin duck season and the bag limits for geese are to be the same as in the general goose season in their respective States.

In that portion of Idaho lying west of U.S. Highway 93 (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties) in the Oregon Counties of Baker and Malheur; in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1978.

In that portion of Idaho lying east of U.S. Highway 93, in that portion of Colorado in the Pacific Flyway in Utah except Washington County, the season on Canada geese may be no more than 72 days and may not extend beyond December 18, 1977.

In Arizona, in that portion of New Mexico in the Pacific Flyway in Clark and Lincoln Counties, Nevada, in Washington County, Utah, and in the Tehachapi waterfowl area of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the

season on Canada geese may not extend beyond January 1, 1978.

In that portion of California Fish and Game District 22 for which California selects the open season, that portion of District 22 lying outside the Colorado River area, the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 1, 1978.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Between October 22, 1977, and February 22, 1978, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common (Wilson's) snipe must coincide with the duck season locally in effect. For other States partially within the Pacific Flyway seasons between September 1, 1977, and February 28, 1978, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

#### SPECIAL FALCONRY SEASONS FRAMEWORKS

Any State that provides special falconry hunting seasons may select extended falconry seasons for taking certain migratory game birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1-January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hawking hours to be 1/2 hour before sunrise until sunset.

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) may not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for coots, gallinules, rails, snipe, woodcock, doves and pigeons only may not exceed

4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each regular and extended falconry hunting season each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

NOTE—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated September 2, 1977.

LYNN A. GREENWALT,  
Director,  
U.S. Fish and Wildlife Service.

[FR Doc 77-26163 Filed 9-8-77; 8:45 am]

#### PART 26—PUBLIC ENTRY AND USE Catahoula National Wildlife Refuge, La.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Service announces a hunter access route across a specified part of the Catahoula National Wildlife Refuge, La. The opening of this access route is compatible with the objectives for which the area was established, and will provide for a route to enter areas open to hunting.

DATES: These regulations will be effective for the 1977-78 hunting season.

FOR FURTHER INFORMATION CONTACT:

Stephen K. Joyner, Refuge Manager, Catahoula National Wildlife Refuge, P.O. Drawer LL, Jena, La. 71342; telephone 318-992-5261.

#### SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

A corridor open for the transportation of unloaded and encased firearms by vehicles during any and all legal waterfowl hunting seasons as follows:

The corridor shall consist of a Parish maintained road on the south side of French Fork of Little River in Sections 8 and 9, T 6N., R. 4E.

This special regulation supplements the regulations governing transportation of firearms on national wildlife refuges generally which are set forth in 50 CFR, Chapter I, Subchapter C. The public is invited to offer suggestions and comments at any time.

NOTE—The service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Stephen Joyner, Refuge Manager, Catahoula National Wildlife Refuge, La.

Dated: September 2, 1977.

RAY R. VAUGHN,  
Acting Regional Director.

[FR Doc.77-26318 Filed 9-8-77;8:45 am]

**PART 32—HUNTING**

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 19, 1978

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101; telephone 303-589-4021.

**SUPPLEMENTARY INFORMATION:**

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe is permitted on Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, and Wilson's snipe subject to the following special conditions:

(1) The hunting of mourning doves and Wilson's snipe will be limited to those dates open to the hunting of waterfowl, (geese, ducks, coots, and mergansers).

(2) Admittance—Entrance to the area open to hunting, and the parking of vehicles will be restricted to designated hunter parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(4) Boats—The use of boats is prohibited. One or two-man life rafts that can be carried by one individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1977.

ROBERT L. DARNELL,  
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc.77-26320 Filed 9-8-77;8:45 am]

**PART 32—HUNTING**

Opening of Alamosa National Wildlife Refuge, Colo., to Public Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of cottontail rabbits and white and black-tailed jack rabbits on Alamosa National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 1, 1977, through January 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Darnell, Refuge Manager, Alamosa National Wildlife Refuge, P.O. Box 1148, Alamosa, Colo. 81101. Telephone 303-589-4021.

**SUPPLEMENTARY INFORMATION:**

§ 32.22 Special regulations: upland game; for individual wildlife refuge areas.

Hunting for cottontail rabbits, white and black-tailed jack rabbits is permitted on the Alamosa National Wildlife Refuge, Colo., but only on the areas designated by signs as being open to hunting. These areas comprising 3,946 acres are delineated on maps available at refuge headquarters, Alamosa, Colo., and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting of rabbits will be permitted only during the Colorado waterfowl season.

(2) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of rabbits.

(4) Hunting with rifles and handguns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1977.

ROBERT L. DARNELL,  
Refuge Manager, Alamosa National Wildlife Refuge, Alamosa, Colo.

[FR Doc.77-26319 Filed 9-8-77;8:45 am]

**PART 32—HUNTING**

Opening of Cape Romain National Wildlife Refuge, S.C., to Public Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to rail hunting of Cape Romain National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 22 through October 29, 1977, except Sundays.

FOR FURTHER INFORMATION CONTACT:

George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429. Telephone 803-928-3368.

**SUPPLEMENTARY INFORMATION:**

§ 32.12 Special regulations: migratory birds; for individual wildlife refuge areas.

Public hunting of rail on portions of the Cape Romain National Wildlife Refuge, Awendaw, S.C., is permitted only on the area designated by signs as open to hunting. The open portion of the refuge consists of approximately 12,000 acres of marsh as delineated on a map which is available upon request from refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting will be in accordance with all applicable State and Federal regulations governing the hunting of rails and subject to the following special conditions on the refuge areas:

1. Only the areas designated by signs as open to hunting may be hunted. (Only rails may be hunted or taken.)

2. Only shotguns are allowed and they must be unloaded and either encased or broken down, except when in the designated hunting area.

3. Dogs are permitted only in the hunting area. (Dogs and weapons are not per-

mitted on any of the islands outside the hunting area.)

4. A special refuge permit is required and may be obtained from refuge headquarters, Monday through Friday (except holidays), from 9 a.m. to 3:30 p.m. Hunters also may obtain their permits through the mail by written request. (Be sure to include complete name and mailing address.)

5. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

**NOTE.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

RAY R. VAUGHN,  
Acting Regional Director.

[FR Doc.77-26321 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

##### Opening of Eufaula National Wildlife Refuge, Ga., to Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

**SUMMARY:** The Director has determined that the opening to waterfowl hunting of Eufaula National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** Each Saturday morning of the regular Georgia waterfowl season.

**FOR FURTHER INFORMATION CONTACT:**

Refuge Manager, Eufaula National Wildlife Refuge, P.O. Box 258, Eufaula, Ala. 36027. Telephone 205-687-4065.

#### SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Waterfowl hunting is permitted on the Eufaula National Wildlife Refuge, Ga., only on the areas designated by signs as being open to hunting. These areas comprising 770 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Waterfowl hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunts will be held from 30 minutes prior to sunrise until 11:30 a.m. (Eastern

Time) on each Saturday morning of the season.

2. Hunters must hunt only from designated blinds provided and located by refuge personnel. Shooting is not permitted outside of designated blind zone.

3. Guns must be unloaded while being transported on the refuge and while being carried to and from the blinds.

4. Each hunter is limited to one box of 12-gauge shells in his possession. Only shells containing steel shot will be permitted and these may be purchased at the check-in station at cost.

5. Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

6. A refuge permit is required. A blind fee of \$6 per blind will be charged at the time the permits are issued prior to each day's hunt.

7. Applications for reservations for the refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Ala., prior to 12 noon, Friday, October 28, 1977. Successful applicants will be determined by an impartial drawing on Monday, October 31, 1977.

8. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

9. Blind reservations are nontransferable.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

**NOTE.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Jimmie L. Tisdale, Refuge Manager, Eufaula National Wildlife Refuge, Ala./Ga.

Dated: September 2, 1977.

RAY R. VAUGHN,  
Acting Regional Director.

[FR Doc.77-26340 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

##### Opening of National Wildlife Refuge in Oklahoma to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

**SUMMARY:** The Director has determined that the opening to hunting of Sequoyah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** September 1, 1977, through the last day of the regular 1977-78 duck season.

**FOR FURTHER INFORMATION CONTACT:**

Refuge Manager, Sequoyah National Wildlife Refuge, Box 398, Sallisaw, Okla. 74955. Telephone 918-775-4931.

#### SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game birds; for individual wildlife refuge areas.

Public hunting of quail, rabbit, and squirrel on the Sequoyah National Wildlife Refuge is permitted on three areas designated by signs as open to hunting. These open areas, comprising a total of 10,500 acres, are delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: squirrel, September 1, 1977, through January 1, 1978; quail, November 20, 1977, through the last day of the regular 1977-78 duck season; rabbits, October 1, 1977, through the last day of the regular 1977-78 duck season. Hunting shall be in accordance with all applicable State regulations covering the hunting of quail, squirrel, and rabbits, subject to the following special conditions:

1. Only shotguns without slug ammunition or longbow and arrow are permitted.

2. Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down.

3. Dogs may be used for hunting quail or rabbit, but must be under immediate control or supervision and restrained from pursuit of protected species.

4. Camping or possession of firearms on the refuge at night is prohibited.

5. All vehicles must be parked in designated parking areas as shown on maps available at refuge headquarters and at leaflet boxes throughout the public hunting area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

**NOTE.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

W. O. NELSON, JR.,  
Regional Director,  
Albuquerque, N. Mex.

AUGUST 31, 1977.

[FR Doc.77-26343 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

##### Opening of Pathfinder National Wildlife Refuge, Wyoming, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

**ACTION:** Special regulation.

**SUMMARY:** The Director has determined that the opening to hunting of Pathfinder National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** As established by Wyoming Game and Fish Commission for Calendar Year 1977.

**FOR FURTHER INFORMATION CONTACT:**

V. Carrol Donner, Refuge Manager, Pathfinder National Wildlife Refuge, Box 457, Walden, Colo. 80480. Telephone 303-723-4717.

**SUPPLEMENTARY INFORMATION:**

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting of deer and antelope is permitted on Pathfinder National Wildlife Refuge, Wyoming, in accordance with dates and areas designated in the Wyoming 1977 Orders regulating deer and antelope hunting. These areas, comprising 16,807 acres, are composed of four separate units and are delineated on maps available at refuge headquarters in Walden, Colo. and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 S. State St., Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer and antelope.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

**NOTE.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

V. CARROL DONNER,  
Refuge Manager.

AUGUST 30, 1977.

[FR Doc.77-26341 Filed 9-8-77; 8:45 am]

**PART 32—HUNTING**

**Opening of Piedmont National Wildlife Refuge, Georgia, to Hunting**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulation.

**SUMMARY:** The Director has determined that the opening to hunting of Piedmont National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** Deer hunts—Archery—October 1-9, 1977. Gun hunts: Bucks only—October 27-29, 1977. Either sex—November 5 and 12, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Ronnie A. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Telephone 912-986-3651.

**SUPPLEMENTARY INFORMATION:**

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Hunting is permitted on the entire Piedmont National Wildlife Refuge, Georgia, except on the areas designated by signs as being closed to hunting. This open area, comprising approximately 33,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Open season and bag limit: (a) Archery hunt—October 1-9, 1977; limit two deer of either sex; (b) buck hunt—October 27-29, 1977; limit two bucks with visible antlers; (c) either sex hunts—November 5 and 12, 1977; limit one deer.

2. During deer hunts, if weather permits gates blocking roads will be opened one hour prior to official sunrise and closed one hour after sunset. Parked vehicles must not block entrances to roads.

3. Handguns may not be used or possessed. Target practice during the hunts is prohibited.

4. All deer must be checked in at refuge headquarters the day killed and before leaving the refuge.

5. Dogs are prohibited.

6. Camping and fires are restricted to the designated camping area in Compartment 19, which will be open one day before, during, and one day after each deer hunt.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case may one adult have more than two juveniles under his/her supervision.

8. It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

9. Prehunt scouting and stand placement will be permitted from 12 noon until sunset on the day immediately prior to each deer hunt. Weapons are not permitted in the woods during scouting periods.

10. A refuge permit is required. Hunt permits are nontransferable. Submission of more than one permit application or applications containing false information is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

**NOTE.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring prepara-

tion of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 2, 1977.

RAY R. VAUGHN,  
Acting Regional Director.

[FR Doc.77-26342 Filed 9-8-77; 8:45 am]

**PART 32—HUNTING**

**Opening of Yazoo National Wildlife Refuge, Mississippi, to Resident Game Hunting**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Special regulation.

**SUMMARY:** The Director has determined that the opening to upland game hunting of Yazoo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

**DATES:** Squirrels: October 1, 1977 through October 8, 1977 (Sundays excluded). Raccoon and Opossum: December 3, 1977 through December 10, 1977 (Sundays excluded).

**FOR FURTHER INFORMATION CONTACT:**

James M. Dale, Refuge Manager, Route 1, Box 286, Hollandale, Miss. 38748. Telephone 601-839-2638.

**SUPPLEMENTARY INFORMATION:**

§ 32.22 Special regulations; hunting of upland game; for individual wildlife refuge areas.

Squirrel, raccoon, and opossum hunting is permitted on the Yazoo National Wildlife Refuge, Mississippi, in wooded areas not designated by signs as closed to hunting. The open areas comprising 7,800 acres are delineated on a map along with special regulation sheets and are available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Upland game hunting shall be in accordance with all State regulations subject to the following conditions:

1. Bag limit: To comply with State regulations at time of hunt.

2. Hunting Hours: Squirrels may be hunted from one half hour before official sunrise until official sunset. Raccoons and opossums may be hunted from official sunset to 12 midnight.

3. Dogs: No dogs will be permitted during squirrel hunt. Dog use during raccoon and opossum hunt will be in accordance with State laws at that time.

4. Weapons: Shotguns, 10-gauge or smaller, and .22 caliber rimfire rifles only.

5. Permits: One day, free permits are required. All hunters must check in and check out at refuge office.

6. Carrying of loaded firearms in vehicles is prohibited. Shooting or spotlighting from vehicles or any paved road is prohibited. No firearms may be dis-

charged within 250 yards of any residences or refuge office.

7. Each hunter under age 18 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: September 2, 1977.

RAY R. VAUGHN,  
Acting Regional Director.

[FR Doc.77-26344 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

Opening of Lake Zahl National Wildlife Refuge, North Dakota, to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on Lake Zahl National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 2, 1977 through September 30, 1977, and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles S. Peck, Project Leader, Des Lacs NWR, Kenmare, N. Dak. 58746. (701-385-4046).

#### SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on Lake Zahl National Wildlife Refuge. The refuge portion owned in fee title consisting of 3,296 acres located in northern Williams County will be open for archery hunting. Hunting shall be in accordance with all applicable State Regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 2 to sunset September 30, and from 12 noon November 21 to sunset December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1977.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Date: August 31, 1977.

ROLLAND J. KRIEGER,  
Acting Project Leader, Des Lacs  
National Wildlife Refuge  
Complex, Kenmare, N. Dak.  
58746.

[FR Doc.77-26223 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

Opening of White Lake National Wildlife Refuge, North Dakota, to Archery Hunting of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to archery hunting of deer on White Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 2, 1977 through September 30, 1977, and November 21, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles S. Peck, Project Leader, Des Lacs NWR, Kenmare, N. Dak., 58746. (701-385-4046.)

#### SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations, big game, for individual wildlife refuge areas.

Public archery hunting of deer will be permitted on White Lake National Wildlife Refuge. The entire refuge of 1040 acres located in Slope County will be open for archery hunting. Hunting shall be in accordance with all applicable State Regulations covering archery hunting of deer, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Archery hunting is permitted from 12 noon (CDT) September 2 to sunset September 30, and from 12 noon November 21 to sunset December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on Wildlife Refuge Areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1977.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11949 and OMB Circular A-107

Date: August 31, 1977.

ROLLAND J. KRIEGER,  
Acting Project Leader, Des Lacs  
National Wildlife Refuge  
Complex, Kenmare, N. Dak.  
58746.

[FR Doc.77-26224 Filed 9-8-77; 8:45 am]

#### PART 32—HUNTING

Opening of Wildlife Management Areas 10 and 11 to Public Pheasant Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will supply additional recreational opportunities to the public.

DATES: October 15, 1977 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak. 57551. Telephone 605-685-6508.

#### SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of cock ringneck pheasant on the Lacreek National Wildlife Refuge, South Dakota is permitted in those parts of Wildlife Management Areas 10 and 11 (2,800 acres) delineated on maps available at designated parking areas, at Refuge Headquarters, Martin, S. Dak. 57551 and at the U.S. Fish and Wildlife Service, Area Office, Pierre, S. Dak. 57501 and not designated closed. Hunting shall be according to State and Federal Regulations governing the hunting of cock pheasants subject to the following special conditions:

(a) The hunting of other than cock pheasant is prohibited.

(b) Designated hunting access and parking sites will be available. Entering and parking at other sites will be prohibited.

(c) Hunting will be allowed only by Special Permit Report forms available at designated parking sites.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations Part 32 and are effective through December 31, 1977. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11949 and OMB Circular A-107.

HAROLD H. BURGESS,  
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

AUGUST 30, 1977.

[FR Doc 77-26345 Filed 9-8-77 8 45 am]

Title 7—Agriculture

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

[Lemon Reg 109]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 11-17, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE September 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202-447-3545.

**SUPPLEMENTARY INFORMATION**  
*Findings.* (1) Pursuant to the amended marketing agreement 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 recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, 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 specified week stems from the production and marketing situation confronting the lemon industry.

(1) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The rec-

ommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is good on all sizes.

Average f.o.b. price was \$6.95 per carton the week ended September 3, 1977, compared to \$6.73 per carton the previous week.

Track and rolling supplies at 135 cars were down 30 cars from last week.

(1) 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 established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, 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 were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on September 6, 1977.

§ 910.409 Lemon Regulation 109.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 11, 1977, through September 17, 1977, is established at 215,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

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

Dated: September 8, 1977.

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

[FR Doc. 77-26545 Filed 9-8-77 11:32 am]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Industry Committee Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of \$140,642, fixes a rate of assessment of eight cents per lug (23 pounds) of grapes handled for the functioning of the Industry Committee for the 1977-78 fiscal period, and approves carrying over unexpended funds from the previous fiscal period as a reserve. The committee is established under a Federal marketing order program regulating Tokay grapes grown in San Joaquin County, Calif. This regulation enables the committee to collect assessments from handlers on all assessable grapes handled and to use the resulting funds for its expenses.

DATES: Effective for the period April 1, 1977, through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

**SUPPLEMENTARY INFORMATION:** On August 15, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 41130) regarding proposed expenses and rate of assessment, under Marketing Order No. 926 (7 CFR Part 926) regulating Tokay grapes grown in San Joaquin County, Calif. This notice allowed interested persons opportunity to submit written comments pertaining to the proposal until September 2, 1977. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposal set forth in the notice, which was submitted by the Industry Committee (established under the marketing order), it is found and determined that:

§ 926.217 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1977, through March 31, 1978, will amount to \$140,642.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 926.46,

is fixed at eight cents (\$0.08) per No. 38L grape lug as specified in § 1380.19 of the Regulations of the California Department of Food and Agriculture or equivalent quantity of Tokay grapes.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period which ended March 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 926.47.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) handling of the current crop of Tokay grapes grown in the production area is now underway; (2) provisions of the marketing order require that the rate of assessment shall apply to all assessable grapes handled during the fiscal period; and (3) the fiscal period began April 1, 1977, and the rate of assessment will automatically apply to all grapes handled during the period.

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

Dated: September 6, 1977.

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

[FR Doc.77-26362 Filed 9-8-77; 8:45 am]

#### PART 967—CELERY GROWN IN FLORIDA Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of \$65,000 and a rate of assessment of one cent per crate of celery for the functioning of the Florida Celery Committee. The regulation enables the committee to collect assessments from first handlers on all assessable celery handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Celery Committee, established under the order, is responsible for its local administration.

Notice was published in the August 17 FEDERAL REGISTER (42 FR 41431) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than September 2, 1977. None was filed.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal year shall apply to all assessable celery from the beginning of such year.

The regulation is as follows:

#### § 967.213 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending July 31, 1978, by the Florida Celery Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to \$65,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one cent (\$0.01) per crate of celery handled by him as the first handler during the fiscal year.

(c) Unexpended income in excess of expenses for the fiscal year may be carried over as a reserve to the extent authorized in § 967.62.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: September 6, 1977.

CHARLES R. BRADER,  
Deputy Director, Fruit and Veg-  
etable Division, Agricultural  
Marketing Service.

[FR Doc.77-26363 Filed 9-8-77; 8:45 am]

#### Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION

#### PART 213—EXCEPTED SERVICE

##### Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Special Assistant to the Director, one position of Special Assistant to the Assistant Director, Office of Community Action, and one position of Executive

Director to the Director, Office of Regional Operations.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3373(a) (6) is amended, and (h) (2) and (k) are added as set out below:

#### § 213.3373 Community Services Administration.

(a) Office of the Director. \* \* \*

(6) Two Special Assistants to the Director.

\* \* \* \* \*

(h) Office of Community Action. \* \* \*

(2) One Special Assistant to the Assistant Director.

\* \* \* \* \*

(k) Office of Regional Operations. (1) One Executive Assistant to the Director.

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.77-26526 Filed 9-8-77; 10:10 am]

#### PART 213—EXCEPTED SERVICE Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Director, Office of Congressional Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 9, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3377(k) is added as set out below:

#### § 213.3377 Equal Employment Opportunity Commission.

\* \* \* \* \*

(k) One Director, Office of Congressional Affairs.

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.77-26525 Filed 9-8-77; 10:10 am]

Title 7—Agriculture

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification of Processed Fruits and Vegetables

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document adds overtime rates to the list of charges for inspection service, because it has been determined that commodity graders are not exempt from the requirements of the Fair Labor Standards Act. This action means that recipients of commodity grading services will be required to pay for such overtime services at the rates prescribed.

EFFECTIVE DATE: September 11, 1977.

FOR FURTHER INFORMATION CONTACT:

E. C. Williams, Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3810).

SUPPLEMENTARY INFORMATION: Until recently, the Department had declared commodity graders of the Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, were exempt from the

Fair Labor Standards Act which required time and a half pay for overtime worked. Most graders requested compensatory leave for overtime worked in lieu of overtime pay. Because of the seasonal nature of fruit and vegetable grading, this provided year-round employment. It has now been determined that the processed fruit and vegetable graders are not exempt. They no longer have the option of requesting compensatory time and must be paid for overtime worked.

Under the provisions of the Agricultural Marketing Act of 1946, fees must be assessed to recover the full cost of providing service. Therefore, overtime rates are being added to the list of charges for inspection service.

Accordingly, § 2852.42—Schedule of fees—and § 2852.52—Charges for inspection service on a contract basis—are being amended to recover increased costs.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1097, et seq., as amended; 7 U.S.C. 1621-1627), § 2852.42 and § 2852.52 (c) (6) and (d) (5) are hereby amended to read as follows:

§ 2852.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, including analyses specified in § 2852.47, shall be at the rate of \$18.45 per hour plus an additional \$5 per hour for all scheduled overtime hours.

§ 2852.52 Charges for inspection service on a contract basis.

\* \* \* \* \*

(c) \* \* \*  
(6) *Overtime.* All overtime hours will be charged at the regular rate specified in (c) (1) and (2) of this section plus \$5.00 per hour.

(d) \* \* \*  
(5) *Overtime.* All overtime hours will be charged at the regular rates specified in (d) (1) of this section plus \$5 per hour

\* \* \* \* \*

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than September 11, 1977 (5 U.S.C. 553), are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) the increases in fee rates set forth herein are necessary to more nearly cover such cost, and (3) additional time is not required by the users of the inspection service to comply with this amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, (7 U.S.C. 1622, 1624) )

Dated to become effective at 12.01 a.m., September 11, 1977.

NOTE.—The Food Safety and Quality 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.

Dated: September 2, 1977.

ROBERT ANGELOTTI,  
Administrator, Food Safety,  
and Quality Service.

[FR Doc.77-26514 Filed 9-8-77; 8:45 am]

# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[ 7 CFR Part 210 ]

### NATIONAL SCHOOL LUNCH PROGRAM

Nutritional Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** Notice is hereby given that the Food and Nutrition Service, U.S. Department of Agriculture (FNS), proposes to amend the regulations governing the nutritional requirements of the National School Lunch Program. The major purposes of the proposed changes in the lunch requirements are to meet more accurately the nutritional needs of children of varying ages and to bring the lunch requirements into conformance with the 1974 revisions of the Recommended Dietary Allowances (RDA) as published by the Food and Nutrition Board of the National Research Council, National Academy of Sciences (NRC-NAS).

**DATES:** Comments must be received on or before October 25, 1977.

**ADDRESS:** Comments should be sent to: William G. Boling, Manager, Child Nutrition Programs, USDA, FNS, Washington, D.C. 20250 (202-447-8130).

**FOR FURTHER INFORMATION CONTACT:**

William G. Boling, Manager, Child Nutrition Programs, USDA, FNS, Washington, D.C. 20250 (202-447-8130).

#### SUPPLEMENTARY INFORMATION:

##### SUMMARIZED CHANGES

Public comments are invited from all sectors and on the full range of meal quality and acceptability issues affected by this proposal. The principal changes in the lunch requirements, as set forth in a new section, § 210.19b, are to: (1) Specify minimum quantities of foods appropriate for five age groups; (2) require the service of lunch to preschool children ages 1 through 5 years at two service periods which, in combination, will meet the quantities and components of the appropriate lunch pattern; (3) expand the bread alternates to include enriched or whole-grain rice, macaroni, noodles and other pasta products; (4) specify the number of servings of bread or bread alternates to be served for a school week to provide added flexibility in menu planning; (5) specify that a serving of dry beans and peas, or peanut butter can be used to meet no more than one-half of the meat/meat alternate re-

quirement for all children; (6) specify that eggs may be used to meet only one-half of the meat/meat alternate requirement for children ages 3 and above, and that eggs may be used to meet the full meat/meat alternate requirement for children ages 1 and 2 years; (7) specify that eggs, cooked dry beans or peas and peanut butter may be combined with meat, poultry, fish or cheese to meet the total meat/meat alternate requirement; or eggs, cooked beans or peas and peanut butter may be used with one another in equal quantities to meet the total meat/meat alternate requirement; (8) provide that children 12 years and over may request smaller portion sizes of the required lunch components than are specified to meet their individual food needs and to reduce plate waste; (9) specify that unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students in addition to whole milk, flavored or unflavored, or any other flavored milk.

All public sectors, including parents and students are invited to comment during this basic 45-day comment period on proposed regulations. After the comment period, interim regulations incorporating public concerns will be issued. Interim regulations may be used by any State agency, at its option, for the interim field testing period, in willing schools of various grade levels in lieu of current regulations will permit optional testing of interim lunch patterns under actual operating experience over a four-month time period. Comments from the general public, as well as from all parties associated with field testing, will continue to be accepted and considered by the Department. These comments will be especially helpful to the Department in developing acceptable final regulations. Also of assistance to the Department will be public comments received during the course of public hearings on Child Nutrition Programs, scheduled during the fall. It is contemplated that final regulations will be adopted after the termination of the interim regulatory period putting into effect mandatory lunch patterns and related regulatory changes.

##### BACKGROUND

The National School Lunch Program, since its inception in 1946, has specified lunch requirements. The "Type A" pattern, once the predominant lunch pattern, became the sole allowable lunch pattern as the program grew and developed.

The kinds and amounts of foods specified in the Type A lunch pattern are minimum amounts of foods to serve 10 to 12 year old children. This pattern provides a flexible framework to allow man-

agers to choose from a wide variety of foods in planning and serving nutritious and well-balanced lunches. The lunch pattern is designed to allow flexibility to provide children with a wide variety of foods. Also, the pattern is a tool for teaching children about food and nutrition which assists in formulating good eating habits. The flexibility of the pattern also allows managers to plan menus which reflect the regional, cultural, ethnic, and special dietary needs and food practices of the children they serve.

The Type A pattern has been revised from time to time to reflect new knowledge about the nutritional needs, food consumption habits and food preferences of children. The current regulations encourage School Food Authorities, if consistent with State policy, to serve younger children lesser amounts and older children larger amounts of some foods than are prescribed by the Type A lunch. This provision allows School Food Authorities flexibility in providing lunches consistent with the nutritional needs of children. In spite of guidance and regulatory recommendations which encourage portion size variations to accommodate the food needs of children of various ages, many program administrators at the State and local levels have not implemented these recommendations. This appears to have been a factor contributing to some plate waste in the younger age groups. At the same time, older students often have complained that school lunches do not provide enough food for their increased appetites. In an effort to allow smaller portion sizes for young students and to more accurately meet the nutritional needs of children of all ages, while at the same time maintaining the original flexibility of the Type A pattern, the proposed lunch patterns define minimum portion sizes for children of varying age groups. The proposed lunch patterns are set forth in the Table, in § 210.19b.

##### THE NUTRITIONAL GOALS

The nutritional goals of the proposed lunch patterns are based on Recommended Dietary Allowances (RDA) for children of different ages.

In developing the proposed lunch patterns, consideration was given to amounts of food energy (kilocalories) and all nutrients for which Recommended Dietary Allowances have been established and adequate reliable food composition data are available. The specific nutrients include protein, calcium, iron, vitamin A, thiamin, riboflavin, niacin, magnesium, vitamin B<sub>6</sub>, vitamin B<sub>12</sub>, and ascorbic acid. Since the proposed lunch patterns allow for a variety of foods that will meet goals for these nutrients, it is assumed that the patterns

will also provide sufficient amounts of the many other nutrients for which no Recommended Dietary Allowances are established or inadequate food composition data are available.

The nutritional goal—one-third of the Recommended Dietary Allowances for the various nutrients (excluding food energy)—is believed to be justified. Many children rely on the lunch for approximately one-third of their nutrient intake.

Approximately 22 percent of the Recommended Dietary Allowances for energy will be provided when lunches meet minimum requirements of the proposed patterns. Lunches which furnish less food energy (kilocalories) than one-third of the Recommended Dietary Allowances appear to be appropriate for this program. Many children may not need a comparably high level of food energy at lunch time because foods eaten at other meals and snacks may provide more than two-thirds of their daily energy requirements. Health statistics indicate that obesity resulting from an excessive intake of food is a major nutritional problem in this country, even among children. Lunches providing high levels of food energy may contribute to overeating or food waste and may be neither practical nor nutritionally sound for most children. The Department is interested in comments on this issue.

In the 1974 edition of the Recommended Dietary Allowances, the consumption of fat and refined sugars is identified as a dietary issue, but an optimal level for these nutrients in diets for the general population is not specified. The level of fat in the proposed patterns is lower than that found in diets of many individuals and of that indicated by studies of school lunch composition, conducted by USDA and other researchers. The approximate percentage of food energy provided by fat in the proposed new lunch patterns ranges for various age groups between 34 and 37 percent when whole milk is served; 30 and 33 percent when lowfat milk is served; and 24 and 29 percent when skim milk is served. Schools will be expected to provide lunches whose fat content falls within these ranges. If the student selects whole milk as a part of lunches meeting minimum requirements of the proposed patterns, the approximate amount of food energy that would be derived from fat would be 34 to 37 percent. To make lunches available which contain a lower level of fat, while maintaining a degree of individual choice, proposed regulations specify that unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students. Such milks may be offered as a choice item along with other types of fluid milk or as a single item to meet the milk component of the lunch requirements. In regard to refined sugars, the Department encourages the service of foods with relatively low sugar content (such as fresh fruits or fruits canned in natural juices or light syrup) to meet lunch requirements. Recommendations are also made to keep at a minimum quantities of sugar needed to prepare

acceptable menu items such as desserts, which are not a required part of the lunch.

Recommendations for menu planning which will be identified in guidance materials include: (1) Include several foods for iron each day; (2) include a vitamin A vegetable or fruit at least twice a week; (3) use no more than three eggs per five school lunches per week per child as a meat/meat alternate or in food preparation; (4) include a vitamin C vegetable or fruit several times a week; and (5) keep fat, sugar and salt at a moderate level.

#### SPECIFIED AGE GROUP PATTERNS

The 1974 Recommended Dietary Allowances specify nine age-sex groups of children and young adults from one to twenty-two years of age. To provide realistic age groups of preschool and school-aged children, and to reduce the number of groups for practical and administrative purposes, some age-sex groups have been combined. This reduces the number of groups while providing realistic differences in required quantities of some lunch components. The proposed lunch patterns provide approximately one-third of the Recommended Dietary Allowances for five age groups. These groups are: Group I—ages 1 and 2; Group II—ages 3, 4, and 5; Group III—ages 6, 7, and 8; Group IV—ages 9, 10, and 11; Group V—ages 12 and up.

The nutrient goal for lunch for children 1 and 2 years of age is one-third of the amounts specified for the 1 through 3 year old child in the 1974 Recommended Dietary Allowances. For the other four age groups, the nutrient goals have been derived from the sex-age groupings as specified in the 1974 Recommended Dietary Allowances. Allowances for 3, 4, and 5 year old children were interpolated using the Recommended Dietary Allowances for children 1 through 3 years of age and 4 through 6 years of age. For 6, 7, and 8 year old children, the allowances at the midpoint of the category were interpolated using the Recommended Dietary Allowances for the children 4 through 6 years and 7 through 10 years of age. For the 9, 10, and 11 year olds, the allowances at the midpoint of the category were interpolated using the Recommended Dietary Allowances for children of ages 7 through 10 years and the average Recommended Dietary Allowances for males and females 11 through 14 years of age. For children 12 years and older, allowances at the midpoint are interpolated between average Recommended Dietary Allowances for males and females 11 through 14 years of age and the average Recommended Dietary Allowances for males and females 15 through 18 years of age.

Group I serves preschool children (ages 1 and 2); Group II—kindergarten (ages 3, 4, and 5); Group III—school grades 1 through 3 (ages 6, 7, and 8); Group IV—school grades 4 through 6 (ages 9, 10, and 11); and Group V—school grades 7 through 12 (ages 12 and above).

These age-grade designations reflect the predominant configurations in the United States, provided in U.S. Bureau of the Census, "Current Population Reports," Series P20, No. 303, "School Enrollment—Social and Economic Characteristics of Students, October 1975," U.S. Government Printing Office, Washington, D.C. 20402. In recognition that age-grade designations vary by locality, the proposed regulations permit State officials and local school administrators and managers reasonable flexibility in adapting the age level groups to appropriate grade levels.

Those schools with the capability to serve children solely on the basis of ages of children are encouraged to do so. Since the lunch patterns are developed on the basis of the nutritional needs of each age grouping, this is a desirable goal and is the most sound approach nutritionally.

However, it is likely that some groups of children cannot be classified exactly into one of the five designated age-grade groups; that is, the ages of children may not necessarily correspond to the grades, as specified in these proposed regulations. In determining which lunch patterns are most appropriate to use, the School Food Authority must review the ages of the children being served on a school-by-school basis and base a determination of the meal patterns to be used on that data. This provision is set forth for ease of administration. For instance, a junior high school serving grades 7 through 9, with a predominance of children aged 12, 13, and 14, may also have a few 11 year olds enrolled. Because the predominant ages are 12 and above, it would be appropriate as a matter of practicality to serve a Group V lunch pattern to all children in the school. In a second example, if age 12 is the highest age in a given elementary school, but only a few 12 year old children are enrolled, the School Food Authority may wish to serve the Group IV lunch pattern to all grades in which the 9, 10, and 11 year old children are predominantly enrolled. Even though some older children may also be enrolled in the school, the predominant ages of the children served would determine which patterns are most appropriate. However, if a substantial number of 12 year old children were enrolled in this school, the School Food Authority is obligated to provide a Group V lunch pattern to such children. The Department intends to provide more specific guidance in this area in subsequent regulations or instructions, and is particularly interested in comments on this matter.

#### ADMINISTRATION OF GROUPS I AND II LUNCH PATTERNS

The proposed patterns for Groups I and II (preschool and kindergarten children, approximate ages 1 through 5) are designed to provide approximately one-third of their Recommended Dietary Allowances—the traditionally established nutritional goal for the school lunch for children of all ages. However, knowledge of food consumption habits

of young children indicates that serving such children more frequently than three times a day through the service of small meals and between meal supplemental foods is desirable. Inasmuch as the quantity of foods specified to be served to such children to approximate one-third of their Recommended Dietary Allowances may be excessive for one serving, regulations are being proposed which require school officials to serve the required foods to children in Groups I and II in two separate food services daily. The foods from each service, in combination, will meet the quantities and components as specified in the Table for children in Groups I and II, as applicable. To allow optimum flexibility at the local level, no specific requirements are placed upon the division of the required food components and quantities into two food services, as long as, in combination, the foods served meet the total daily lunch pattern for children in Groups I and II. The two daily food services are designed to be consistent with recommended dietary practices for children of this age group.

#### ADMINISTRATION OF GROUP V LUNCH PATTERN REQUIREMENTS

The proposed pattern for Group V (ages 12 and older) increases the quantities of some of the food items required under the existing lunch pattern requirements. This proposed pattern is designed to meet the higher nutritional needs of older children. However, in view of the need to accommodate differing food preferences of individuals and minimize unnecessary waste of foods, schools serving the Group V lunch pattern shall allow individual children served this pattern to request smaller portion sizes of the required lunch components.

#### SECOND HELPINGS

The Department observes that, as stated above, the new lunch patterns provide less than one-third of the Recommended Dietary Allowances for food energy (kilocalories) and entail some reduction in portion sizes among certain age groups. The Department is concerned that there may be a need for schools to make second helpings available. While no provision for second helpings appears in the proposed regulations, the Department is interested in comments on whether provisions for second helpings should be added to the regulations, and on possible reimbursement mechanisms to deal with this issue.

#### STUDENT INVOLVEMENT AND EDUCATION

Student education and student and community involvement in the programs have been found, in many instances, to be keys that have successfully led to better student acceptability of foods, higher overall participation levels, and increased nutrition awareness, all of which can have a positive impact upon student health and well-being.

Therefore, the proposed regulations encourage School Food Authorities to utilize the school food service program to teach students about good nutrition practices. School Food Authorities are

also required to involve students in the program through activities such as menu planning, enhancement of the food service environment, program promotion and related student-community support activities, and also encourage the involvement of parents, teachers, and community in these activities.

Further the proposed regulations also address situations where a substantial number of students, over a period of time routinely: 1. do not accept a particular menu item; 2. have a high degree of plate waste; 3. request lesser food quantities than are specified as minimums in the Table under the proposed provisions for Group V students; or 4. choose less than all five food items in the case of senior high school students under the provisions of existing regulations, and where schools are experiencing declining or low program participation. The proposed regulations require State agencies in cooperation with local School Food Authorities experiencing these problems, to develop, implement and monitor an action plan to upgrade the quality of food service to encourage the acceptance and consumption of the complete lunch. School Food Authorities are required by the proposed regulations to involve students in this process.

#### MONITORING OF LUNCH PATTERN REQUIREMENTS

Lunches shall continue to be planned to meet daily the appropriate food components and quantities specified in the Table. However for ease and practicality of administration and to promote flexibility, these proposed regulations restructure the monitoring of the lunch pattern requirements from a daily to a weekly basis. This arrangement is consistent with current philosophy with regard to Federal-State relationships in the operation of cooperative programs. Specifically planned menus will be evaluated over a week's time to determine if total quantities of food for each meal as specified in the Table found in § 210.19b for children of various age groups are being provided. All required food components must be served each day. However it is conceivable that a quantity shortage may occur occasionally and in such an instance, the manager should make every attempt to identify such a shortage and compensate for it by providing extra foods from that component later in the week. Such compensations will assist in assuring that foods are served over a week's time which, in total, meet the prescribed appropriate lunch patterns.

Monitoring of regulatory compliance, including lunch requirements, will continue under the supervisory assistance efforts of State administering agencies described in § 210.14 of the regulations. However as part of the supervisory assistance effort, the traditional approach to performing a nutritional review and meal analysis must be restructured under the proposed regulations. These proposed regulations encourage State agencies to review lunch menu plans on a weekly basis to determine if lunch re-

quirements are met over a week's time. State agencies are also encouraged to continue to review each day's menus as part of their supervisory assistance effort and make recommendations which would help the school or School Food Authority serve nutritious, well-planned acceptable lunches every school day. In the event that a School Food Authority fails to meet the lunch requirements over a week's time, the State agency must develop, implement and monitor a plan of action, in cooperation with the local authority, to correct the failure. Repeated failure to meet the requirements established for lunches means that children are not served lunches which meet their nutritional needs. It is required that penalties be imposed where such repeated failures occur.

#### NUTRIENT STANDARD

In an effort to allow maximum flexibility to menu planners and to increase the variety of menu planning approaches, the Department is continuing to explore alternatives to menu planning in addition to the traditional menu planning approach being used currently and in these proposed regulations. One such approach under consideration for possible future development into proposed regulations is the nutrient standard approach to menu planning.

The nutrient standard approach involves planning menus to meet a predetermined nutrient level instead of a meal pattern, such as the Type A pattern, which specifies food components and quantities to approximate this nutrient goal.

While the Department is not prepared to address the nutrient standard approach in these proposed regulations, the Department will give consideration to all public comments on this approach to menu planning. These comments will be helpful to the Department in determining if such an approach is feasible.

#### FIELD TESTING

After a basic 45-day comment period on the proposed regulations, interim regulations incorporating public comments will be developed. Interim regulations will authorize State agencies and School Food Authorities to voluntarily participate in an effort to field test the provisions of the interim regulations from January 1, 1978, through April 30, 1978. School Food Authorities authorized to participate in the field test are required, during the field test, to comply with all of the provisions of the proposed regulations as well as with other provisions not inconsistent with interim regulations. After April 30, 1978, and up until September, 1978, School Food Authorities which were approved to participate in the field test will be authorized by FNS, at the discretion of the State agency, to (1) continue to operate in accordance with the provisions of the interim regulations; (2) revert back to use of existing (Type A) pattern; or (3) adopt the changes appearing in the final regulations. School Food Authorities which do not wish to participate in the field test will continue to operate under

the now current regulations. During the field testing phase, public comments will continue to be accepted from all sectors.

State agencies are encouraged to begin plans for coordinating a field testing effort by School Food Authorities under their administration. The Department will provide further detailed guidance on the structure and content of the field tests. The guidance will identify areas of concern upon which the Department would find comments from field testing schools of special assistance in formulating final regulations. Such areas would include the impact of the proposed lunch patterns upon direct costs, food acceptability, plate waste levels, student opinions and administrative costs at the State level. Participating State agencies will be expected to seek a representative sampling of schools, both public and private, representing a wide diversity of situations and age-grade ranges for participation in field testing. Due to the nature of the proposed changes, it is essential that schools of all age and grade levels be adequately represented in the field test. Of particular interest to the Department is an assessment of the effect these minimum standards have on lunches produced for and consumed by children. The preamble to the forthcoming interim regulations will also provide additional information on the conduct of field tests. State agencies are encouraged to consider the use of the special developmental project authority under § 210.7 to assist in the conduct of the field testing efforts.

#### TIME FRAMES

Inasmuch as the timing of this proposed change is vital to its successful implementation, the implementation time frames in these proposed regulations are also subject to public comment. The time frames have been devised to allow an initial 45-day comment period on proposed regulations. All public comments on proposed regulations must be presented to the Department by October 25, 1977. The comment period on proposed regulations will lead into an interim field testing phase (explained above) during which time public comments will continue to be invited. The field testing phase will last four months, from January 1978 through April 1978. All final comments on the interim regulations must be presented to the Department by May 15, 1978, to be assured of consideration. The regulations are scheduled to be made final in June 1978, with voluntary implementation up until September 1978, at which time they will

be mandatory in all participating schools. During the initial comment and interim testing periods, the Department plans to conduct hearings to more fully explain the proposed changes and to receive public comments, concerns, and questions directly.

#### COMMENT PERIOD

The Department has determined that the traditional 30-day proposed rule-making and public participation procedures are inadequate for handling the many changes it wishes to make in the lunch patterns and associated procedures. And, because the Department wishes to coordinate these regulations with the school year, it has determined it necessary and in the best interest of the program to provide for a 45-day initial comment period on proposed regulations leading into a four-month optional field testing period, beginning in January 1978. The Department expects that the extended public comment and field testing periods will allow the public to provide invaluable comments, suggestions and input and will assist the Department in developing final regulations which are more nutritionally sound and responsive to local needs and concerns. In this regard, School Food Authorities participating in the field testing will be expected to measure student response, to encourage students to comment, and to incorporate these comments into their general comment report or to ask the students to write directly to this Department.

Comments, suggestions, or objections on these proposed regulations are invited from all sectors, including children as well as parents. In order to be assured of consideration, such comments, suggestions, or objections should be delivered to William G. Boling, Manager, Child Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, no later than October 25, 1977, or submitted by mail postmarked no later than that date. Communications should identify the regulation section and paragraph on which comments, etc., are offered. All written submissions received pursuant to this notice will be made available for public inspection at the Office of the Manager, Child Nutrition Programs, during regular business hours (8:30 a.m. to 5 p.m.) (7 CFR 1.27(b)).

Due to the fact that implementation of the new lunch pattern requirements will be a voluntary alternative after adoption of the final regulations until

September 1978, the regulations are proposed to be amended by adding a separate section as follows:

A new § 210.19b would be added to read as follows:

#### § 210.19b Field testing and interim lunch patterns.

(a) State agencies, or FNSROs where applicable, may field test interim provisions for new lunch patterns set forth in this section, at their option, in selected schools, in order to make comments and suggestions on such lunch patterns which will assist the Department in developing final regulations. The field testing period will extend from January 1978 through April 1978. Public comments received by May 15, 1978 will be considered. Schools which participate in the field test may continue to implement the interim regulations until they are issued in final form.

(b) School Food Authorities which participate in the field testing phase shall comply with all of the provisions of this section as well as with other provisions not inconsistent with this section. School Food Authorities which do not participate in the field testing phase will not be affected by the provisions of this section, and shall continue to comply with all other provisions of this part.

(c) Additional definitions applicable to this sub-section are as follows:

1. "Group I lunch pattern" means kinds and amounts of foods to serve preschool children, ages 1 and 2.

2. "Group II lunch pattern" means kinds and amounts of foods to serve kindergarten children, ages 3, 4, and 5.

3. "Group III lunch pattern" means kinds and amounts of foods to serve children in school grades 1 through 3, ages 6, 7, and 8.

4. "Group IV lunch pattern" means kinds and amounts of foods to serve children in school grades 4 through 6, ages 9, 10, and 11.

5. "Group V lunch pattern" means kinds and amounts of foods to serve children in school grades 7 through 12, ages 12 and above.

(d) To provide a nutritious and well-balanced lunch to each child daily, minimum serving sizes of food are specified to serve children of five specific age-grade groupings. Except as otherwise provided in this section, to be eligible for Federal cash reimbursement, lunches shall be planned to contain, as a daily minimum, the foods described in the following Table in the quantities specified for each of the five age-grade groupings, as applicable.

TABLE - School Lunch Pattern Requirements - Amounts of Foods Listed By Food Components to Serve Children of Various Ages

Food Components	Fresh School Children Group I (1 and 2 years)	Group II (3, 4 and 5 years)	Elementary School Children Group III (6, 7 and 8 years)	Group IV (9, 10 and 11 years)	Secondary School Boys and Girls Group V (12 years and over)
<u>MEAT AND MEAT ALTERNATES 1/</u>					
Meat--a serving (edible portion as served) of cooked lean meat, poultry, or fish. .OR Meat Alternates:	1 ounce equivalent 2/	1 1/2 ounces equivalent	1 1/2 ounces equivalent	2 ounces equivalent	3 ounces equivalent
<u>Cheese</u>	1 ounce equivalent 2/	1 1/2 ounces equivalent	1 1/2 ounces equivalent	2 ounces equivalent	3 ounces equivalent
The following meat alternates 3/may be used to meet only 1/2 of the meat/meat alternate requirement: Eggs (1 large egg may replace 1-ounce cooked lean meat.) Cooked Dry Beans or Peas (1/2 cup may replace 1 ounce cooked lean meat.) 5/ Peanut Butter (2 tablespoons may replace 1 ounce cooked lean meat.)	1 egg 4/ 1/4 cup	3/4 egg 3/8 cup	3/4 egg 3/8 cup	1 egg 1/2 cup	1 1/2 eggs 3/4 cup
<u>VEGETABLES AND FRUITS 5/</u>	1 tablespoon	1 1/2 tablespoons	1 1/2 tablespoons	2 tablespoons	3 tablespoons
Two or more servings consisting of vegetables or fruits or both. A serving of full strength vegetable or fruit juice can be counted to meet not more than 1/2 of the total requirement.	1/2 cup	1/2 cup	1/2 cup	3/4 cup	3/4 cup
<u>BREAD AND BREAD ALTERNATES 6/</u>	5 slices or alternates/week	8 slices or alternates/week	8 slices or alternates/week	8 slices or alternates/week	10 slices or alternates/week
A serving (1 slice) of enriched or whole-grain bread; OR a serving of biscuits, rolls, muffins, etc., made with whole-grain or enriched meal or flour; 7/ OR a serving (1/2 cup) of cooked enriched or whole-grain rice, macaroni, or noodle products 8/	1/2 cup	3/4 cup	3/4 cup	1/2 pint	1/2 pint
<u>MILK, FLUID</u>			3/4 cup		
An option to fluid whole milk or flavored milk must be offered. 9/					

## NOTES:

- 1/ Meat and Meat Alternates must be served in a main dish, or in a main dish and one other menu item.
- 2/ Equivalents will be determined and published in guidance materials by FNS/USDA.
- 3/ Eggs, cooked dry beans or peas, and peanut butter may be combined with one-half of the quantity requirements for meat, poultry, fish or cheese to meet the total Meat/Meat Alternate requirement, or they may be used in equal quantities in combination with one another to meet the total Meat/Meat Alternate requirement. For example, for Group IV children, 2 tablespoons of peanut butter may be supplemented with 1 hard cooked egg to meet the total Meat/Meat Alternate component.
- 4/ For Group I children an egg may be served to meet the total Meat/Meat Alternate requirement.
- 5/ Cooked dry beans or dry peas may be used as part of the Meat Alternate or as part of the Vegetable/Fruit component, but not as both food components in the same meal.
- 6/ One-half or more slices of bread or an equivalent amount of bread alternate must be served with each lunch with the total requirement being served during a five day period. Schools serving lunch 6 or 7 days per week should increase this specified quantity for the five day period by approximately 20% (1/5) for each additional day.
- 7/ Bread Alternates and serving sizes will be published in guidance materials by FNS/USDA.
- 8/ Enriched macaroni products with fortified protein as defined in Appendix A, March 1974, may be used as part of a Meat Alternate or as a Bread Alternate, but not as both food components in the same meal.
- 9/ Unflavored fluid lowfat milk, skim milk, or buttermilk must be available to students, in addition to whole milk, or any flavored milk.

(e) Inasmuch as the age-grade designations for the five groups shown in the Table may not correspond exactly with the ages and grades of children in every local situation, the School Food Authority may exercise a reasonable degree of flexibility in adapting the age level groups to appropriate local grade levels. While the quantities of food in the lunch patterns are developed on the basis of the nutritional needs of children of various ages, for ease of program administration, grade levels have been provided along with the age level designations. School Food Authorities which have the capability to serve quantities of foods to children solely on the basis of their ages are encouraged to do so. For schools where this is not feasible, the School Food Authority shall adapt the age-grade groups provided in the Table to those which most closely approximate the ages served in each school under its jurisdiction. In no case shall the School Food Authority plan to serve a substantial number of children foods from a specified pattern that is designated to serve a younger age-grade grouping.

(f) Inasmuch as the quantities of foods specified in the Table for children in Groups I and II may be excessive at one sitting, School Food Authorities shall serve the foods required by Groups I and II lunch patterns, as appropriate, in two distinctive service periods. The foods served in the two sittings, in combination, must meet the minimum components and quantities specified in the Table for children in Groups I and II, as applicable.

(g) Inasmuch as the larger quantities of food specified for children in Group V may not be consistent with preferences of individual children, School Food Authorities shall permit children served the Group V lunch pattern to request smaller portion sizes of the lunch components than are specified in the Table. The acceptance of such smaller portion sizes shall not affect reimbursement earned under §210.11 nor shall the price of the lunch be reduced when reduced portion sizes are requested.

(h) To provide variety and to encourage consumption and participation, the School Food Authority should, whenever possible, provide a selection of foods and types of milk from which children may choose the lunch. When more than one lunch is offered, or when a variety of foods and types of milk is offered for choice within the required lunch pattern, all children shall be offered the same selections regardless of whether they are eligible for free or reduced price lunches or pay the full price.

(i) The kinds and amounts of food specified in the Table shall serve as minimums to be used in planning menus for the applicable age-grade group of children being served daily. To allow flexibility at the local level, monitoring of compliance with these lunch requirements shall be made over a week's time to assure that the components and the total appropriate component quantity requirements specified are provided by the menus.

(j) Senior high school students shall be offered complete lunches. Such students must choose at least three of the five food items contained within the four food components of the lunch. The choice of fewer than all five food items shall not relieve nonneedy students from paying the full price of the lunch or those determined eligible for reduced price lunches under Part 245 of this chapter from paying the reduced price charge.

(k) Substitutions may be made in foods listed in the Table, if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods.

(l) The inability of a school to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases, the State agency, or FNSRO where applicable, may approve the service of lunches without milk, provided that an equivalent amount of canned, whole dry or non-fat dry milk is used in the preparation of the components of the lunch.

(m) If emergency conditions temporarily prevent a School Food Authority which normally has a supply of milk from obtaining delivery thereof, the State agency, or FNSRO where applicable, may approve the service of lunches without milk during the emergency period.

(n) In American Samoa, Puerto Rico, and the Virgin Islands, the following variation from the lunch requirements is authorized: A serving of a starchy vegetable, such as yams, plantains, or sweet potatoes, may be substituted for one serving under the bread bread alternate requirement.

(o) Monitoring for compliance with the lunch requirements set forth in the Table may be made over a week's time. State agencies, or FNSROs where applicable, at their discretion, may monitor compliance on a more frequent, or daily basis. If the State agency, or FNSRO where applicable, finds that a School Food Authority is failing to meet the lunch requirements as set forth in the Table over a week's time, the State agency or FNSRO shall develop, implement and monitor a plan which provides that positive corrective actions will be taken to overcome any such failure. Repeated failure by a School Food Authority to meet lunch requirements as set forth in the Table shall subject the School Food Authority to disallowance of all or part of Federal reimbursement.

(p) In the event that the State agency, or FNSRO where applicable, finds that a School Food Authority has poor management practices leading to decreasing student participation or poor student acceptability of the program or of foods served as indicated by a substantial number of students who routinely over a period of time (1) request lesser food quantities than the minimum specified serving quantities (Group V children); (2) do not favorably accept a particular menu item; (3) return foods

uneaten; or (4) choose less than all five food items (in the case of senior high school students under the provisions of paragraph (h) of this section), the State agency, or FNSRO where applicable, in cooperation with the School Food Authority, shall develop, implement and monitor a plan of corrective action to correct these management deficiencies. Such a plan shall promote the involvement of students in activities which would lead to the correction of such deficiencies. Such activities may include, but are not limited to, menu planning, the enhancement of the eating environment, program promotion and related student-community program support activities.

(q) School Food Authorities must involve students in the program through activities such as menu planning, enhancement of the eating environment, program promotion and related student-community support activities. School Food Authorities are encouraged to utilize the school food service program to teach students about good nutrition practices and to involve parents, teachers, faculty, and community in activities designed to enhance the program.

1 Catalog of Federal Domestic Assistance No. 10.555. National Archives Reference Service.

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

Dated September 6, 1977.

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

[FR Doc 77-26416 Filed 9-8-77; 8:45 am]

**Agricultural Marketing Service**  
[7 CFR Part 910]

**HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Proposed Expenses and Rate of Assessment for the 1977-78 Fiscal Year**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This notice invites written comment on proposed expenses of \$396,000 and a rate of assessment of 3.3 cents per carton of lemons for the functioning of the Lemon Administrative Committee for the 1977-78 fiscal year. This committee locally administers a Federal marketing order regulating the handling of lemons grown in California and Arizona. The regulation would enable the committee to collect assessments from handlers on all assessable lemons handled and use the resulting funds for its expenses.

**DATES:** Comments must be received on or before September 24, 1977. Proposed effective dates: August 1, 1977, through July 31, 1978.

**ADDRESSES:** Send two copies of comments to the Hearing Clerk, United

States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

**SUPPLEMENTARY INFORMATION:** The proposals under consideration were submitted by the Lemon Administrative Committee, established under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions.

The proposals are as follows:

**§ 910.215 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the fiscal year August 1, 1977, through July 31, 1978, will amount to \$396,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 910.41, is fixed at 3.3 cents per carton of lemons.

Dated: September 6, 1977.

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

[FR Doc. 77-26364 Filed 9-8-77; 8:45 am]

**[ 7 CFR Part 1049 ]**

[Docket No. AO-319-A28]

**MILK IN THE INDIANA MARKETING AREA**

**Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This decision recommends changes in the present order provisions based on industry proposals considered at a public hearing held July 26, 1977. The recommended changes would add four Michigan counties to the marketing area and make a limited change in the classification of milk. The changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

**DATES:** Comments are due on or before September 26, 1977.

**ADDRESS:** Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:**

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4829).

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding: Notice of hearing, issued June 22, 1977; published June 29, 1977 (42 FR 33040).

**PRELIMINARY STATEMENT**

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area, and of the opportunity to file exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by September 26, 1977. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as herein-after set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Indianapolis, Indiana, on July 26, 1977, pursuant to notice thereof which was issued June 22, 1977 (42 FR 33040).

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area; and
2. Classifying the shrinkage of non-fat milk solids used in modifying fluid milk products.

**FINDINGS AND CONCLUSIONS**

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Indiana marketing area, now comprised of 64 Indiana counties, should be expanded to include the four Michigan counties of Berrien, Branch, Cass, and St. Joseph. About three-quarters of the route disposition in each of the four counties is from eight Indiana order pool plants. The remaining route disposition in the four counties is from five Southern Michigan order pool plants and from a plant regulated under the Chicago order.

The handling of milk in the enlarged marketing area is in the current of interstate commerce and directly burdens, ob-

structs or affects interstate commerce in milk and its products.

The four-county area, which is in southwestern Michigan, borders on the northern boundary of the present Indiana marketing area. Two of the four counties, St. Joseph and Branch, are bounded on the north by Kalamazoo and Calhoun Counties, respectively, which counties are in the southwestern corner of the Southern Michigan order marketing area. The 1970 census population of the four counties is 292,000. For each county the population is: Berrien, 164,000; Branch, 38,000; Cass, 43,000; and St. Joseph, 47,000.

Expansion of the marketing area, which was proposed by McDonald Dairy Cooperative Association, was favored by the major cooperatives in the Indiana market. There was no opposition to the proposal.

McDonald operates a pool distributing plant in Benton Harbor in Berrien County, Mich. The route disposition from that plant in the four Michigan counties proposed to be added to the marketing area is greater than from any other plant. In May 1977 about 27 percent of the Benton Harbor plant's route disposition was in the Indiana marketing area and about 23 percent in the Southern Michigan marketing area. The remaining route disposition from the plant was in a presently unregulated five-county area—four proposed counties and Van Buren County, Mich., which attaches to the northern boundary of Berrien and Cass counties.

Although the Benton Harbor plant has been qualifying each month for pooling under both the Indiana and Southern Michigan orders, it has been pooled continuously under the Indiana order. This is because its route disposition each month in the Indiana marketing area has been greater than in the Southern Michigan marketing area. However, in some recent months the total route disposition in the Southern Michigan marketing area has been close to that in the Indiana marketing area.

For May 1977 it appeared that the Benton Harbor plant's route disposition in the Southern Michigan marketing area was greater than in the Indiana marketing area. Only after an audit was made by the market administrator was it determined that the route disposition from the plant was greater in the Indiana marketing area than in the Southern Michigan area.

The McDonald spokesman stated that unless the four counties are included in the marketing area, and the Benton Harbor plant's distribution therein becomes route disposition in the marketing area, regulation of the plant could shift back and forth between the Indiana and Southern Michigan orders. This is because in some months the plant's route disposition in the present Indiana marketing area could be less than in the Southern Michigan marketing area, which would result in the Benton Harbor plant being regulated for the month under the Southern Michigan order.

Including the four proposed counties in the Indiana marketing area will result in the Benton Harbor plant having substantially more sales each month in the foreseeable future in the Indiana marketing area than in the Southern Michigan marketing area. This would remove any uncertainty regarding the order under which the plant would be regulated.

The Indiana order provides for a "takeout-payback" fall production incentive plan that withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April-July. This money is distributed to producers on the basis of their production in the payback months of September-December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August-December. If regulation of a plant shifted back and forth between orders, the producers involved could lose the benefits of the producer payment plan in the order under which their milk was usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order. Without the inclusion of the proposed four counties in the Indiana marketing area, producers supplying the Benton Harbor plant could find themselves in such a situation.

Including in the Indiana marketing area the proposed four counties, wherein Indiana order handlers are the principal distributors, will contribute to market stability. Particularly, it would serve as a safeguard against disruptive marketing conditions and the inequities among producers that would result if regulation of the plant they supplied shifted back and forth between the Indiana and Southern Michigan orders.

The provisions of the existing order as herein proposed to be amended are equally appropriate for the expanded marketing area.

2. *Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.* When fluid milk products are modified by adding nonfat milk solids (i.e., nonfat dry milk, condensed skim milk, or similar products), shrinkage in Class III up to two percent of the fluid equivalent of the quantity of nonfat milk solids added should be allowed.

Fluid products modified by the addition of nonfat milk solids, commonly called fortified products, represent a significant Class I disposition of handlers. Such a modified product must be accounted for under the order as Class I in a quantity equal to the weight of an equal volume of the same unmodified product. The small increase in volume due to the addition of the nonfat milk solids is accounted for when the modified product is disposed of as Class I. The remainder of the fluid equivalent of nonfat milk solids added but not represented by a volume increase in the modified product is classified as Class III.

The market administrator's laboratory tests the modified milk products of a

handler to determine their total nonfat milk solids content. From that total he subtracts the nonfat milk solids content of milk utilized by the handler in making the modified milk products to determine the quantity of solids added.

The quantity of nonfat milk solids determined by the market administrator to have been added to the modified product is the basis for computing the fluid equivalent of the nonfat milk solids to be accounted for and classified.

The handler who proposed the change adopted in this decision complained that the order makes no allowance for the loss of nonfat dry milk solids used in fortification. He testified that, in addition to the loss incurred in processing fluid milk products, losses result from spillage and from nonfat dry milk sticking to the bags in which it is received at the plant.

Some disappearance of nonfat milk solids may be due to a lack of detailed records for each batch of fluid milk products fortified with added nonfat milk solids. For example, when more of a fortified fluid milk product is made than is needed for packaging on a particular day, the excess would be diverted for use in another product at the plant. It may not always be practicable for a handler to maintain a complete and accurate record of the nonfat milk products from each batch of a fortified product so diverted.

When the amount of nonfat milk solids in modified fluid milk products is determined by the market administrator's laboratory testing, a reasonable basis exists for computing a shrinkage allowance for nonfat milk solids used in the fortification process. A Class III shrinkage allowance of not more than two percent of the fluid equivalent of the quantity of nonfat milk solids so used, which is adopted in this decision, is appropriate for this purpose. This is the same rate of Class III shrinkage allowance applicable to milk received from producers.

The loss of nonfat milk solids associated with the fortifying process should be treated separately from the shrinkage allowances applied to receipts of fluid milk products. The shrinkage allowance in this case should be a part of the classification procedure of the specific modified fluid milk product disposed of.

The present classification provisions specify how much of the fluid equivalent of the nonfat milk solids in a fortified product may be classified in Class III. The shrinkage allowance provided herein would be a quantity of Class III milk in addition to the quantity now calculated under the present provision.

Any disappearance of nonfat milk solids in excess of the two percent limit would enter into the total plant accounting for receipts and disposition under the present order provisions applicable to shrinkage.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain

interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

#### RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof

would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1049.2 is revised as follows:  
 § 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all of the territory within the boundaries of the following counties, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

(a) In Indiana, the counties of:

- |             |             |
|-------------|-------------|
| Adams       | La Porte    |
| Allen       | Lawrence    |
| Bartholomew | Madison     |
| Blackford   | Marion      |
| Boone       | Marshall    |
| Brown       | Miami       |
| Cass        | Monroe      |
| Clay        | Montgomery  |
| Clinton     | Morgan      |
| Decatur     | Noble       |
| De Kalb     | Owen        |
| Delaware    | Parke       |
| Elkhart     | Porter      |
| Fayette     | Putnam      |
| Fountain    | Randolph    |
| Franklin    | Ripley      |
| Fulton      | Rush        |
| Grant       | St. Joseph  |
| Hamilton    | Shelby      |
| Hancock     | Starke      |
| Hendricks   | Steuben     |
| Henry       | Switzerland |
| Howard      | Tippecanoe  |
| Huntington  | Tipton      |
| Jackson     | Union       |
| Jay         | Vermillion  |
| Jefferson   | Vigo        |
| Jennings    | Wabash      |
| Johnson     | Warren      |
| Kosciusko   | Wayne       |
| Lagrange    | Wells       |
| Lake        | Whitley     |

(b) In Michigan, the counties of:

- |         |            |
|---------|------------|
| Berrien | Cass       |
| Branch  | St. Joseph |

2. In § 1049.40, paragraph (c) (6) is revised as follows:

§ 1049.40 Classes of utilization.

- .....
- (c) \* \* \*
- (6) In skim milk in any modified fluid milk product that is in excess of the

quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15, plus the fluid equivalent of loss of nonfat milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed two percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

Signed at Washington, D.C., on: September 6, 1977.

WILLIAM T. MANLEY,  
 Deputy Administrator,  
 Program Operations.

[FR Doc. 77-26266 Filed 9-8-77; 8:45 am]

Rural Electrification Administration  
 [ 7 CFR Part 1701 ]  
 SPECIFICATIONS FOR STEP-DOWN DISTRIBUTION SUBSTATION TRANSFORMERS  
 Proposed Revision of REA Specification S-3

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rule.

SUMMARY: REA proposes to revise REA Specification S-3, REA Specifications for Step-Down Distribution Substation Transformers, 34.4-138 kV. This revision is intended to bring REA specifications up to date with existing standards publications. Because of the extent of the revision, the entire specification is published below. On issuance of REA Specification S-3, Appendix A to Part 1701 will be modified accordingly.

Voltage rating, kilovolt	BIL	Percent Impedance	Tap voltage, kilovolt
34.4.....	200	6.0	36.2/35.3/33.5/32.6
43.8.....	250	6.5	46.2/45.0/42.6/41.4
67.0.....	350	7.0	70.6/68.8/66.2/63.4
115.0.....	550	8.0	126.75/117.875/112.125/109.25
115.0.....	450	7.5	126.75/117.875/112.125/109.25
138.0.....	650	8.0	144.9/141.45/134.55/131.1
138.0.....	550	8.0	144.9/141.45/134.55/131.1

B. Low voltage: The nominal low voltage rating and BIL shall be one of the following:

DATES: Public comments must be received by REA no later than October 11, 1977.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone number 202-447-4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed revision of REA Specification S-3 is as follows:

REA SPECIFICATIONS FOR STEP-DOWN DISTRIBUTION SUBSTATION TRANSFORMERS

Date accepted: Spec. No. S-3

I. Scope.—These specifications apply to step-down distribution substation type transformers used on rural electric systems. The transformers covered by these specifications shall be 60 hertz, single-phase or three-phase, and of the outdoor, oil-immersed type. The standard ratings are to be at 55/65° C rise.

II. Rating.—A. High voltage: The nominal high voltage rating, BIL, percent impedance and full capacity tap range shall be one of the following:

Voltage rating, volts		BIL, kilovolt
Single phase	3 phase	
7200/12470 Y	12470 Y/7200	110
7620/13200 Y	13200 Y/7620	110
14400/24940 Y	24940 Y/14400	150

C. These specifications apply to the kVA ratings in categories I, II, and III as follows:

*Single phase, capacity, kilovoltampere*

Primary voltage, kilovolt	Category I			Category II		
	167	250	333	500	833	1250
34.4	167	250	333	500	833	1250
43.8	167	250	333	500	833	1250
67.0	167	250	333	500	833	1250

Primary voltage, kilovolt	Category III		
	2500	3333	5000
43.8	2500 <td>3333 <td>5000 </td></td>	3333 <td>5000 </td>	5000
67.0	2500 <td>3333 <td>5000 </td></td>	3333 <td>5000 </td>	5000
115.0	2500 <td>3333 <td>5000 </td></td>	3333 <td>5000 </td>	5000
138.0	2500 <td>3333 <td>5000 </td></td>	3333 <td>5000 </td>	5000

*3 phase<sup>1</sup>*

Primary voltage, kilovolt	Category II, capacity, kilovoltampere					
	750	1000	1500	2000	2500	3750
34.4	750	1000	1500	2000	2500	3750
43.8	750	1000	1500	2000	2500	3750
67.0	750	1000	1500	2000	2500	3750
115.0						5000
138.0						5000

Primary voltage, kilovolt	Category III, capacity, 1,000 VA					
	7.5	10	12	15	20	30
34.4	7.5 <td>10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td></td>	10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td>	12 <td>15 <td>20 <td>30</td> </td></td>	15 <td>20 <td>30</td> </td>	20 <td>30</td>	30
43.8	7.5 <td>10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td></td>	10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td>	12 <td>15 <td>20 <td>30</td> </td></td>	15 <td>20 <td>30</td> </td>	20 <td>30</td>	30
67.0	7.5 <td>10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td></td>	10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td>	12 <td>15 <td>20 <td>30</td> </td></td>	15 <td>20 <td>30</td> </td>	20 <td>30</td>	30
115.0	7.5 <td>10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td></td>	10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td>	12 <td>15 <td>20 <td>30</td> </td></td>	15 <td>20 <td>30</td> </td>	20 <td>30</td>	30
138.0	7.5 <td>10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td></td>	10 <td>12 <td>15 <td>20 <td>30</td> </td></td></td>	12 <td>15 <td>20 <td>30</td> </td></td>	15 <td>20 <td>30</td> </td>	20 <td>30</td>	30

<sup>1</sup> Category I, none.

III. *Applicable standards.*—Transformers shall comply with the following national standards publications, except where they conflict with the specific requirements of these specifications:

American National Standard General Requirements for Distribution, Power and Regulating Transformers, ANSI C57.12.00 (1973).

American National Standard Requirements for Transformers 138,000 volts and Below, 501 through 10,000/13,333/16,667 kVA, Single Phase and 501 through 30,000/40,000/50,000 kVA, Three Phase, ANSI C57.12.10 (1969) (Categories II and III).

American National Standard Requirements for Overhead-Type Distribution Transformers, 67,000 Volts and Below; 500 kVA and Smaller, ANSI C57.12.20 (1974) (Category I).

NEMA Standards Publication on Transformers, Regulators, and Reactors, Publication No. TR-1 (1974).

IEEE Standard on Distribution and Power Transformer Short Circuit Test Code, IEEE Standard 262A (1977).

IV. *Specific requirements.*—Transformers shall be equipped for tank mounting of lightning arresters for both primary and secondary protection.

V. *Load-tap-changing transformers.*—Load-tap-changing transformers shall meet the requirements of this specification and of ANSI C57.12.30 (1971), and the tap changing mechanism shall be such that it can be removed from the

transformer and the transformer returned to service with minor modifications.

VI. *Other transformers.*—A. Category IV transformers shall meet the requirements of ANSI C57.12.00 (1973).

B. Transformers with secondary voltages higher than 24,940/14,400 volts shall meet the requirements of ANSI C57.12.00 (1973), and ANSI C57.12.10 (1969).

Dated: August 31, 1977.

RICHARD F. RICHTER,  
Assistant Administrator—Electric.  
[FR Doc. 77-26010 Filed 9-8-77; 8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

#### [ 19 CFR Part 113 ]

#### CUSTOMS BONDS

#### Proposed Change of Policy Relating to Foreign Landing Certificates

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of proposed change of policy.

SUMMARY: Customs proposes to require that landing certificates be presented to confirm that certain purchases from "duty-free shops" are exported to Mexico. This action is necessary to ensure that the articles purchased are ex-

ported to Mexico and not entered into the commerce of the United States without the payment of duties and taxes.

DATES: Comments must be received on or before October 11, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

John R. Cookfair, Operations Officer, Inspection and Control Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5354).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

A "duty-free shop" is a store in which a variety of merchandise is offered for sale without the payment of Customs duties and taxes. The merchandise is sold on the condition that it will be used outside the United States. Customs duties and taxes will be assessed on the merchandise if it is returned to this country. Duty-free shops were first established at airports in the United States and on the land borders with Mexico and Canada in the early 1960's, with the express purpose of providing duty and tax-free merchandise for the personal use abroad of individuals about to leave the country. These shops continue to service individuals who purchase items for their personal use abroad, following long-established administrative procedures tailored to accommodate this type of sale.

The Customs Service has discovered, however, that duty-free shops on the United States-Mexican border have become major wholesale suppliers, using the procedure designed to effect small, personal use sales to individuals. These simplified procedures were never intended to be used in wholesale transactions. Moreover, a substantial quantity of the merchandise purchased in duty-free shops is entered into Mexico illegally without the payment of Mexican Customs duties, then smuggled back into the United States to be entered into the commerce of this country without payment of United States duties and taxes. The result is a substantial loss of revenue to the United States.

To prevent this loss of revenue to the United States, the Customs Service has determined that it may be necessary to require that landing certificates be presented in certain specified circumstances. A landing certificate is a document signed by a revenue officer of the country to which merchandise is exported, certifying that the merchandise has been received into foreign Customs custody. The landing certificate is a formal acknowledgment by the foreign Customs administration that the exportation to that country has been recognized and accepted, and ensures that any required duties and taxes will be collected and any

restriction governing the importation will be met.

Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622) provides that the Secretary of the Treasury may prescribe regulations requiring landing certificates when merchandise is exported from the United States in cases in which he considers it necessary for the protection of the revenue. Therefore, section 113.55(d)(2) of the Customs Regulations (19 CFR 113.55(d)(2)) provides that a landing certificate may be required by the district director of Customs for merchandise exported from the United States when he considers the certificate necessary for the protection of the revenue. This certificate must be presented to the district director within six months from the date of exportation.

Since March 1973, duty-free shops have been specifically exempted from the requirement to present a landing certificate when certain commodities are exported in Customs bond, although other types of bonded warehouses were made subject to the requirement at that time. In view of the problems encountered at the Mexican border, the Customs Service proposes to require a landing certificate whenever a purchase of the commodities listed below from duty-free shops for exportation to Mexico exceeds \$250. However, a landing certificate would not be required for the exportation of a single item with a purchase price over \$250.

Alcoholic beverages	Poreclain
Chocolates and sweets	Powdered milk
Christmas ornaments	Radios
Clothing	Tape recorder players
Cosmetics	Tape recorders
Costume jewelry	Television sets
Crystal	Suit material
Perfumes	

These commodities were chosen, after consultation with Mexican Customs officials, to represent "high-risk" merchandise with a potential to be smuggled because of their high rates of duty in both the United States and Mexico and, in some cases, because their entry into the United States is subject to quota. The \$250 amount is consistent with the regulations of the Bureau of the Census, Department of Commerce, which do not require filing a Shipper's Export Declaration when merchandise valued less than that amount is exported.

Landing certificates would also be required for all exportations of the following commodities in Customs bond, regardless of value, whenever the quantity exported exceeds that determined appropriate for personal use, as indicated:

Cigarettes, 2 cartons.  
Watches, 2 each.

The proposed requirement for landing certificates would have the dual result of impeding the illegal entry in Mexico of merchandise purchased in wholesale quantities from duty-free shops, while protecting the revenue of the United States from the loss of Customs duties and taxes which occurs due to the illegal return of that merchandise into the commerce of this country. The Customs Serv-

ice emphasizes that this proposal is not intended to and will not hinder purchases by individuals from duty-free shops of merchandise for export in personal use quantities. Those sales will continue to be permitted for the convenience of the individual traveler.

#### PROPOSED CHANGE

Accordingly, it is proposed to require the production of a landing certificate to confirm that purchases of certain commodities from duty-free shops, as set forth above, are exported to Mexico. This change is being proposed under the authority of sections 622 and 624, 46 Stat. 759 (19 U.S.C. 1622, 1624). Notice of this proposed change is being published for public comment pursuant to section 177.10(c)(2) of the Customs Regulations (19 CFR 177.10(c)(2)).

#### COMMENTS

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

#### DRAFTING INFORMATION

The principal author of this document is Todd Schneider, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in its development, both on matters of substance and style.

ROBERT E. CHASEN,  
Commissioner of Customs.

[FR Doc. 77-26303 Filed 9-8-77; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

[FRL 771-5]

### WATER QUALITY STANDARDS

Navigable Waters of the State of Nebraska  
AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule to amend 40 CFR 120.

SUMMARY: The Nebraska Environmental Control Council adopted a State water quality standards regulation on September 10, 1976, that was submitted to EPA on November 2, 1976, which downgraded the uses of 35 waters of the State of Nebraska. That downgrading of water uses for the 35 waters did not meet the requirements of 40 CFR 130.17(c)(3). This proposed rule redesignates beneficial uses for the 35 waters to those in existence prior to the September 10, 1976, downgrading action.

DATES: Comments must be received on or before October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale B. Parke, Head, Water Quality Standards, Water Division, EPA, 1735 Baltimore Street, Kansas City, Mo. 64108. (816-374-6391).

SUPPLEMENTARY INFORMATION: Section 303(c) of the Federal Water Pollution Control Act (the Act), as amended, (33 U.S.C. 1313(c)), and 40 CFR 130.17 provide that whenever a State revises its existing water quality standards or adopts new standards, such standards must be submitted to the Regional Administrator for approval. If the Regional Administrator determines that the revised standards do not meet the requirements of the Act, he must notify the State and specify the changes necessary for compliance. If such changes are not adopted by the State within 90 days after the date of notification, the Administrator shall promulgate water quality standards that meet the requirements of the Act.

Pursuant to 40 CFR 130.17(c)(3), EPA approval of a downgrading of designated beneficial uses must be based upon a demonstration by the State of one of the following: (1) The existing designated use cannot be attained because of natural background conditions; (2) the existing designated use cannot be attained because of irretrievable man-induced conditions; or (3) the existing designated use cannot be attained because the imposition of controls above or in addition to the technology-based requirements of best available technology economically achievable and best practicable wastewater treatment technology would result in a substantial and widespread adverse economic and social impact.

On March 31, 1977, the Acting Regional Administrator, Region VII, EPA, disapproved water quality standards revisions for the 35 waters which were downgraded from primary contact recreational uses to secondary or non-contact uses, or completely eliminated by the September 10, 1976, revision of Rule 7 of the Nebraska Water Quality Standards.

In March 31, 1977 letter, the Acting Regional Administrator indicated to the Governor of Nebraska that the transcript of the public hearing at which Rule 7 was adopted did not satisfy the requirements of 40 CFR 130.17(c)(3). The letter pointed out that the justification for downgrading had not been made on a case-by-case basis. In addition, to satisfy the requirements of 40 CFR 130.17(c)(3), pertinent data should have accompanied the public hearing transcript which demonstrated the unattainability of the previously designated beneficial uses and which formed the basis for the rule adopted by the Council. Thus, the Acting Regional Administrator disapproved Rule 7 of the revised Nebraska water quality standards. He informed the Governor that:

The State Water Quality Standards must be modified so that the designated beneficial uses on these waters are reinstated as they were prior to the amendments to Rule 7 adopted on September 10, 1976. If the State chooses in the alternative to provide a less restrictive designation of beneficial uses on any or all of the subject 35 waters, an appropriate rule must be adopted by the Nebraska State Environmental Control Council after consideration of each water so affected on a case-by-case basis; and a decision based on and justified to EPA with information demonstrating that the existing designated uses are not appropriate in accordance with the criteria specified at 40 CFR 130.17(a)(3).

Since neither of these conditions has not been met, the Administrator of the Environmental Protection Agency has prepared a proposed regulation reinstating the previous beneficial use classification (primary contact recreation) for the 35 waters, in compliance with 40 CFR 130.17 and section 303(c)(4)(A) of the Act.

If the Nebraska Environmental Control Council takes either of the actions specified in the Acting Regional Administrator's March 31, 1977, letter, these proposed modifications to the Nebraska water quality standards will not be promulgated. If such changes are not made, the Administrator must promulgate these proposed standards no later than 90 days after the date of this notice under section 303(c)(4) of the Act.

The Agency encourages the submission of comments on the proposed regulations by all interested persons, organizations, and governmental agencies. Comments should be sent to: Dale B. Parke, Water Division, U.S. Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Mo. 64108. All comments received on or before October 25, 1977, will be considered by the Agency prior to promulgation of these regulations.

Dated: August 31, 1977.

DOUGLAS M. COSTLE,  
Administrator.

Section 120.37 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

§ 120.37 Nebraska.

The water quality standards applicable to the surface waters of the State of Nebraska, adopted by the Nebraska Environmental Control Council on May 14, 1976, with subsequent revisions adopted on September 10, 1976, and December 10, 1976, are amended as follows:

The designated uses adopted in Rule 7 by the State of Nebraska on September 10, 1976, for the following navigable waters are amended in each case to be full body contact, partial body contact, and fish and wildlife protected. The criteria necessary to support the designated beneficial uses for these waters are those in Rule 2 and Rule 6 of the Nebraska water quality standards:

Hanson Memorial Reserve State Special Use Area  
Limestone Bluffs State Special Use Area  
Pawnee Prairie State Special Use Area

Ponderosa State Special Use Area  
Wilson Creek State Special Use Area  
Crystal Lake State Recreational Area  
Blue Bluff State Special Use Area  
Diamond Lake Wildlife Area State Special Use Area  
Dead Timber State Recreational Area  
Wood Duck State Special Use Area  
Yellowbanks State Special Use Area  
Arnold Lake State Recreational Area  
Bowman Lake State Recreational Area  
Ravenna State Recreational Area  
Milburn Dam State Special Use Area  
Pibel Lake State Recreational Area  
Victoria Springs State Recreational Area  
Memphis Lake State Recreational Area  
Coot Shallows State Special Use Area  
War Axe State Wayside Area  
Plattsmouth State Special Use Area  
Verdon Lake State Recreational Area  
American Game Marsh State Special Use Area  
Ballards Marsh State Special Use Area  
Walgren Lake State Recreational Area  
Champion Lake State Recreational Area  
Sacramento-Wilcox State Special Use Area  
Carter P. Johnson Lake  
Blue Hole East State Special Use Area  
Union Pacific State Wayside Area  
Pressy Lake State Special Use Area  
Stagecoach No. 9 State Recreational Area  
Teal No. 22 State Special Use Area  
Box Elder Canyon State Special Use Area  
Buffehead State Special Use Area

[FR Doc. 77-26262 Filed 9-8-77; 8:45 am]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 182]

COOPERATIVE EDUCATION PROGRAMS

Proposed Criteria Governing Awards for  
Planning, Establishing, Expanding or  
Carrying Out Programs

AGENCY: U.S. Office of Education,  
HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice of proposed rulemaking is to amend existing regulations for the Cooperative Education Programs under Title VIII of the Higher Education Act, as amended, to conform with section 129 of the Education Amendments of 1976 (Pub. L. 94-482). The proposed regulations set forth rules and criteria governing awards for planning, establishing, expanding, or carrying out programs of cooperative education, and for support of training, research, or demonstration projects for cooperative education.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations for the Commissioner's consideration. In order to receive consideration, all comments, suggestions, or objections must be received no later than the 45th day after publication of this notice of proposed rulemaking in the FEDERAL REGISTER, or on the next business day if the 45th day is a Saturday, Sunday, or Federal holiday. Comments must be received on or before October 25, 1977.

ADDRESSES: All comments should be sent to Bureau of Postsecondary Educa-

tion, Division of Training and Facilities, U.S. Office of Education, Room 3053, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202. Comments will be available for inspection at the above office, between 8:30 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Dr. John L. Chase, Bureau of Postsecondary Education, Room 3053, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202; telephone 202-245-2280.

SUPPLEMENTARY INFORMATION:

The provisions of the Education Amendments of 1976 make several technical changes in the Cooperative Education Programs under Title VIII, formerly Title IV-D of the Higher Education Act, as amended. Section 129 of the Education Amendments of 1976 provides that programs of cooperative education may now include alternating periods of work and school attendance, removing the requirement that students be enrolled on a full-time basis. In addition, the Commissioner may now make grants to institutions or combinations of institutions for up to five fiscal years, instead of three, to plan, establish, expand or carry out programs of cooperative education and for support of training, research, or demonstration projects for cooperative education.

These proposed regulations amend existing regulations for the Cooperative Education Programs, which were published in the FEDERAL REGISTER on May 9, 1975, to include these technical changes. There have also been numerous editorial modifications made in the existing regulations to provide greater simplicity and clarity for the reader.

NOTE.—The Office of Education 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.

(Catalog of Federal Domestic Assistance Number 13:510; Cooperative Education Institutional Grants.)

Dated: June 30, 1977.

ERNEST L. BOYER,  
U.S. Commissioner of Education.

Approved: September 2, 1977.

HALE CHAMPION,  
Acting Secretary of Health,  
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by revising Part 182 to read as follows:

PART 182—COOPERATIVE EDUCATION

Subpart A—General

Sec.	
182.1	Scope of part.
182.2	Purpose of the program.
182.3	Definitions.
182.4	General provisions regulations.
182.5	Applications—general.
182.6	Performance reports.

**Subpart B—Cooperative Education Programs**

- Sec.  
 182.11 Eligible parties.  
 182.12 Eligible programs.  
 182.13 Limit on number of grants.  
 182.14 Limit on amounts of grants.  
 182.15 Content of application.  
 182.16 Funding criteria.  
 182.17 Student work experience.  
 182.18 Ineligible expenditures.  
 182.19 Eligible costs of administration.

**Subpart C—Training, Research, and Demonstration Projects**

- 182.20 Eligible parties.  
 182.21 Eligible projects.  
 182.22 Funding criteria for training projects.  
 182.23 Funding criteria for research and demonstration projects.

Authority: Title VIII of the Higher Education Act of 1965, as amended, 90 Stat. 2144-2146 (20 U.S.C. 1133-1133b), unless otherwise noted.

**Subpart A—General****§ 182.1 Scope of part.**

The regulations in this part apply to the Cooperative Education Programs (Title VIII of the Higher Education Act of 1965, as amended).

(20 U.S.C. 1133, 1133a, 1133b.)

**§ 182.2 Purpose of the program.**

The Commissioner is authorized to make awards for planning, establishing, expanding, or carrying out programs of cooperative education, and for support of training, research, or demonstration projects for cooperative education.

(20 U.S.C. 1133, 1133a, 1133b.)

**§ 182.3 Definitions.**

As used in this part:

(a) "Act" means Title VIII of Higher Education Act of 1965, as amended.

(b) "Cooperative education" means a program of study at an institution of higher education under which regular students undertake academic study for specified periods of time alternating with work experience in government, industry, business, or non-profit social welfare or educational agencies. In cooperative education, work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time.

(c) "Regular student" is a person in a program of cooperative education who is carrying at least a half-time academic load of course work and related required activities, other than by correspondence. Whether a person comes within this definition must be determined by the institution of higher education on the basis of work loads normally required of students who are full-time degree candidates.

(d) "Institution of higher education" means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(e) "Combination of institutions of higher education" means a group of institutions of higher education which have entered into a cooperative arrangement for the purpose of carrying out a com-

mon objective, or a public or private non-profit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C. 1133a-1133b, 1141.)

**§ 182.4 General provisions regulations.**

Assistance provided under this part is subject to the regulations in 45 CFR Parts 100 and 100a (relating to fiscal, administrative, property management, reporting requirements, and other matters).

(20 U.S.C. 1133b, 1133c.)

**§ 182.5 Applications—general.**

Each applicant under this part shall submit an application which meets the requirements of 45 CFR Part 100a (subpart B).

(20 U.S.C. 1133a, 1133b.)

**§ 182.6 Performance reports.**

Each recipient under this part shall submit the following performance reports to comply with 45 CFR Part 100a (Subpart Q):

(a) An interim progress report at the end of six months which must include information on:

- (1) The extent to which the objectives of the project have been accomplished;
- (2) What factors, if any, have prevented the accomplishment of project objectives, and what, if any, corrective measures are being taken; and
- (3) Any highly significant aspects of the project.

(b) A final report which must be submitted with the final financial status report.

(20 U.S.C. 1133a, 1133b; H. (Conf.) Rept. 94-1701 at 199 (1976).)

**Subpart B—Cooperative Education Programs****§ 182.11 Eligible parties.**

An institution of higher education or a combination of institutions of higher education may apply for an award under this subpart.

(20 U.S.C. 1133(a), 1133a(a).)

**§ 182.12 Eligible programs.**

The Commissioner may make awards under this subpart to plan, establish, expand, or carry out a program of cooperative education.

(20 U.S.C. 1133(a), 1133a(a).)

**§ 182.13 Limit on number of grants.**

No institution of higher education, individually or as a participant in a combination of institutions of higher education, may receive grants under this subpart for more than five fiscal years.

(20 U.S.C. 1133a(c).)

**§ 182.14 Limit on amounts of grants.**

(a) An institution of higher education may not receive an award of more than \$175,000 for any fiscal year. A combination of institutions of higher educa-

tion may not receive in any fiscal year an award of more than \$125,000 multiplied by the number of institutions which apply as participants in the combination.

(20 U.S.C. 1133a(a).)

(b) Each award under this subpart may not include more than the following amounts for administering the program of cooperative education:

(1) 100 percent of the total cost of administering the program in the first fiscal year in which an award is made.

(2) 90 percent of the total cost of administering the program in the second fiscal year for which an award is made.

(3) 80 percent of the total cost of administering the programs in the third fiscal year for which an award is made.

(4) 60 percent of the total cost of administering the program in the fourth fiscal year for which an award is made.

(5) 30 percent of the total cost of administering the program in the fifth fiscal year for which an award is made.

(20 U.S.C. 1133a(c).)

**§ 182.15 Content of application.**

Each application under this subpart must meet the requirements of section 802(b) of the Act.

(20 U.S.C. 1133a(b).)

**§ 182.16 Funding criteria.**

The Commissioner evaluates applications under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum of 100 points):

(a) The extent to which the applicant shows in its application that:

(1) The applicant will use its own resources to increase the size and scope of its cooperative education program during the period of Federal support (5 points);

(2) The applicant has arranged for employment opportunities which to the extent practicable are related to its students' educational, professional, or occupational objectives (10 points);

(3) The applicant supervises its students during the work;

(4) The applicant makes continuing efforts to promote close interaction between its students' work experience and academic study (5 points);

(5) The President and first-line administrators of the applicant support the program (10 points); and

(6) The applicant has a record-keeping system that keeps track of each student's status, attendance periods, and work periods (5 points);

(b) Whether the total amount of work experience is long enough to make a significant contribution toward meeting the student's educational, professional, and occupational objectives (10 points);

(c) The extent to which the applicant has involved administrators, faculty, students, employers, and cooperative education specialists in planning the program (10 points);

(d) Whether the applicant has procedures for making curriculum and cal-

endar changes as necessary to meet the particular needs of students (10 points);

(e) Whether the applicant has a written cooperative education philosophy appropriate to the needs and characteristics of the applicant (10 points);

(f) The extent to which employers will provide appropriate work experience for students in the applicant's program of cooperative education (10 points); and

(g) The extent to which the applicant demonstrates its intention and ability to continue its cooperative education program after Federal financial assistance ends (10 points).

(20 U.S.C. 1133(a), 1133a(b), 1133a(d).)

#### § 182.17 Student work experience.

The recipient of an award under this subpart must insure that:

(a) Each student's work experience is incorporated into the student's program of study; and

(b) The student receives compensation from the employer at a rate comparable to employees who do similar work. However, a student may choose to work without pay or at a lesser rate, if the student works for a social welfare or educational organization.

(20 U.S.C. 1133 (a), (c).)

#### § 182.18 Ineligible costs.

(a) A recipient may not use funds provided under this subpart to:

(1) Compensate any student for his or her work experience or to provide financial assistance to any student to meet the costs of his or her education;

(2) Purchase or lease equipment, unless specifically authorized by the Commissioner in writing;

(3) Purchase or lease land, or purchase, lease, construct, or improve any building; or

(4) Pay teaching salaries or purchase capital equipment.

(b) A recipient may not use funds provided under this subpart for any program which involves sectarian training or which is intended primarily to prepare students to be ministers or teachers of theological subjects.

(c) A recipient may not use funds provided under this subpart for the development and production of audio-visual materials unless specifically authorized by the Commissioner in writing.

(20 U.S.C. 1133(c), 1133a.)

#### § 182.19 Eligible costs of administration.

The costs of administering the project may include the following:

(a) Salaries of the director, any coordinators, and secretaries;

(b) Release time for faculty to help administer the program, including student counseling and supervision, job location and placement, and promotional activities;

(c) Salaries of administrative personnel such as job placement staff, or ad-

mission counselors who publicize the programs and recruit students;

(d) Travel costs of administrative staff, and necessary subsistence costs for them; and

(e) Expendable office supplies and promotional literature.

(20 U.S.C. 1133a(c)); H. (Conf.) Report No. 94-1701 at 199 (1976).)

#### Subpart C—Training, Research, and Demonstration Projects

##### § 182.30 Eligible parties.

The Commissioner may make awards under this subpart as follows:

(a) To institutions of higher education or combinations of institutions of higher education; and

(b) To other public or private non-profit agencies or organizations, if the awards will make an especially significant contribution to attaining the objectives of this subpart.

(20 U.S.C. 1133b.)

##### § 182.31 Eligible projects.

The Commissioner may make awards under this subpart for:

(a) Projects to train persons in planning, establishing, administering, or coordinating programs of cooperative education;

(b) Projects to demonstrate or explore the feasibility or value of innovative methods of cooperative education; or

(c) Projects for research into methods of improving, developing, or promoting the use of programs of cooperative education in institutions of higher education.

(20 U.S.C. 1133b.)

##### § 182.32 Funding criteria for training projects.

The Commissioner evaluates applications for training projects under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum score of 100 points):

(a) The extent to which the applicant proposes to make trainees aware of the need to modify existing undergraduate teaching practices, student calendars, and curricula, to begin to administer a cooperative education program (10 points);

(b) The extent to which the applicant has based its project on its experience in cooperative education or on successful cooperative education programs, or on innovations which have been used successfully in a cooperative education program (25 points);

(c) The extent to which the applicant has clearly defined procedures that give evidence of comprehensive planning (25 points);

(d) The extent to which the proposed project has promise of developing trainees who can apply their expertise in more than one type of cooperative education program (20 points); and

(e) The extent to which the applicant provides evidence of a need for the training in its geographical area (20 points).

(20 U.S.C. 1133b.)

##### § 182.33 Funding criteria for research and demonstration projects.

The Commissioner evaluates applications for research or demonstration projects under this subpart with the criteria in 45 CFR 100a.26(b) and with the following additional criteria (maximum of 100 points):

(a) The extent to which the proposed project is likely to develop information of practical value to administrators of cooperative education programs, or presidents, deans and other principal administrative officers who establish or administer cooperative education programs (25 points);

(b) The extent to which the research design includes:

(1) Well-defined methodologies;

(2) Realistic work schedules; and

(3) A logical relationship between the research design and the stated objectives (25 points);

(c) The extent to which the applicant will explore innovative approaches to the operation of cooperative education programs and evaluate those approaches (20 points);

(d) The extent to which the applicant will demonstrate the feasibility of a stated hypothesis for developing, improving, and promoting the use of cooperative education nationally through:

(1) Experimental models; and

(2) Information dissemination (15 points); and

(e) The extent to which the proposed research will shed new light on:

(1) The effectiveness of cooperative education as an educational process or as preparation for employment, or both;

(2) The beneficial effects of cooperative education for students, employers, and institutions of higher education; or

(3) The effectiveness of innovative approaches to cooperative education (15 points).

(20 U.S.C. 1133b.)

[FR Doc. 77-26315 Filed 9-8-77; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21371; FCC 77-585]

[47 CFR Part 2]

### REQUIREMENT OF A DESCRIPTION OF MEASUREMENT FACILITIES USED IN THE EQUIPMENT AUTHORIZATION PROGRAM AND TO MAKE OTHER CHANGES

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC is proposing to expand its requirements for filing a description of measurement facilities used in the equipment authorization program for radio frequency devices. The agency is also requiring the submission of a report of measurement with each application for type approval. The proposed regulations are designed to ensure that persons making measurements for

equipment authorization have adequate facilities to ensure that the reported measurements are accurate and the equipment is in compliance with FCC technical specifications.

**DATES:** Comments must be received on or before October 11, 1977, and reply comments must be received on or before October 21, 1977.

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

**FOR FURTHER INFORMATION CONTACT:**

Herman Garlan, Chief, RF Devices and Experimental Branch, Office of Chief Engineer, 202-632-7095.

**SUPPLEMENTARY INFORMATION:** Method of Measuring test site attenuation is described in OCE 44 attached to notice of proposed rulemaking.

Adopted: August 24, 1977.

Released: September 6, 1977.

In the matter of amendment of Part 2 to require a description of measurement facilities used in the equipment authorization program and to make other changes, Docket No. 21371.

1. Notice is hereby given of rulemaking to extend the requirement to furnish a description of measurement facilities now required for certification to other parts of the equipment authorization program.

2. Radiofrequency devices, e.g. transmitters, receivers, microwave ovens, etc., offered for sale to the public, with very few exceptions, require an equipment authorization from the Commission as a prerequisite for legal marketing.<sup>1</sup> With an application for type acceptance or certification, the applicant must submit a report of measurements to show that the subject equipment complies with the technical specifications promulgated by the Commission.<sup>2</sup> It is proposed herein to require a similar report of measurements with an application for type approval to provide some assurance that equipment submitted to the FCC Laboratory for type approval testing can reasonably be expected to pass the FCC tests. Our experience during the last two years has shown that about 50 percent of equipments submitted for type approval testing have failed during the initial submission (about 70 percent for video games). This has resulted in needless expense on the part of the manufacturer/applicant and to the Commission. By requiring the manufacturer/applicant to test his equipment prior to submission, we expect this 50 percent failure rate to be cut at least in half.

3. The integrity of the equipment authorization program depends in large measure on the accuracy of the measurement data received by the Commission. Measurements of radiation—on the fundamental, of harmonics and other spurious—are particularly susceptible to

error since they are materially affected by the characteristics of the test site on which the measurement is made. The need to evaluate the suitability of the test site was recognized in the early days of the certification program and a regulation was promulgated<sup>3</sup> to require such a filing with the Commission. We are now proposing to extend this requirement to measurements made for type approval and type acceptance.<sup>4</sup> We are also proposing to require attenuation measurements of the test site to verify that the test site is suitable for making open field radiation measurements.

4. At the same time, we are proposing to require information about the calibration of the instrumentation used for the measurements reported to the Commission to insure that lack of calibration does not introduce errors in the data.

5. Many persons operating measurement facilities have already filed the information required by the rules proposed herein. These individuals will not be required to file a new description but will be expected to update and supplement the description currently on file at the end of the three year period proposed in § 2.955.

6. In view of the above, the Commission is proposing to delete § 15.38 and to add general regulations to Part 2 to require the filing by all parties of a description of measurement facilities used in our equipment authorization program. The proposed rules are attached. As part of this filing each party will be required to furnish site attenuation data measured pursuant to Bulletin OCE 44 which is attached as Appendix A.

7. Pursuant to procedures set forth in § 1.415 interested parties are invited to file comments in this proceeding on or before October 11, 1977. Reply comments may be filed on or before October 21, 1977. In accordance with § 1.419 an original and 5 copies of each comment or reply comment shall be furnished to the Commission. Members of the public who wish to express their interest by participating informally in this rulemaking proceeding may do so by submitting one copy of their comment, without regard to form, provided the docket Number of this proceeding is specified. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at 1919 M Street NW., Room 239, Washington, D.C.

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

Part 2 is amended by adding a new undesignated subpart and Sections 2.951-2.956 inclusive, by adding paragraph (e)

<sup>1</sup> 47 CFR 15.38.

<sup>2</sup> In a subsequent rulemaking proceeding, the Commission proposes to review the several equipment authorization procedures now in use with a view toward simplifying these requirements and combining them into a single procedure.

to Section 2.963. Part 15 is amended by deleting Section 15.38.

1. Part 2 is amended by adding a new undesignated subpart under Subpart J to read as follows:

#### MEASUREMENT FACILITIES

##### § 2.951 Approval of measurement facility.

(a) Each person making measurements to be filed with an application for an equipment authorization shall file a description of his measurement facilities with the Commission. The description shall be sent to FCC Laboratory Div., P.O. Box 40, Laurel, Md. 20810, as a separate document, not attached to an application.

(b) In determining the acceptability of a measurement facility, the Commission will consider the adequacy and calibration schedule of the instrumentation, the terrain and the number of reflecting objects within the measurement area, and the site attenuation curve(s) furnished by the applicant. To be acceptable, the site attenuation should be within  $\pm 2$  dB of the theoretical site attenuation. See appendix to Bulletin OCE 44 for the method of computing the theoretical site attenuation.

(c) The Commission will advise the person filing the description as to its acceptability.

##### § 2.952 Description of measurement facility.

The description of the measurement facility shall include the following information:

(a) Name and mailing address of person(s) and company operating the measurement facility.

(b) Location of the measurement facility and/or test site. Specify this location as city, street, and number. If no street and number, specify the distance and direction from the nearest city.

(c) Physical description of the test site accompanied by photographs 8" by 10" in size clearly showing the surrounding landscape 360° in azimuth of the test site. Smaller photographs may be submitted if they show the required details and are mounted on full size sheets of paper.

(d) Scale plot of the test site showing the physical layout of test structures and all surrounding structures within 5 times the distance between the measuring set and the device being measured. Show all pipes, roads, sidewalks, wiring, metallic objects with any dimension greater than 6 inches, etc., whether above or below ground.

(e) Physical description of all structures shown on the plot of the test site. For each structure indicate the materials of which it is constructed.

(f) Information on the calibration of the test site pursuant to Section 2.953 and Bulletin OCE 44.

(g) List all the measuring instruments used in the facility. For each piece of equipment, indicate the date of the last calibration and the interval between calibrations. Specify the antenna factor and

<sup>1</sup> 47 U.S.C. 302; 47 CFR Part 2, Subpart I.

<sup>2</sup> 47 CFR Part 2, Subpart J.

indicate how the antenna factor was determined for each antenna used in making field strength measurements. Include a sample calculation showing how the antenna factor is used in converting instrument readings into field strength in microvolts per meter ( $\mu\text{V/m}$ ).

(h) For the line impedance stabilization network used in making line conducted measurements, furnish a graph of the impedance magnitude characteristic measured from either side of the receiver receptacle to chassis.

(i) A list of the published standards and measurement procedures employed by persons at the facility, and a copy of each unpublished standard and procedure that is used.

(j) A statement indicating whether this facility is available to do measurement work for others on a contract basis.

#### § 2.953 Characteristics of a test site.

(a) A test site to be used for radiation measurements shall be provided with facilities and appurtenances suitable to make the technical measurements for the particular type(s) of equipment as described in an appropriate standard or measurement procedure.

(b) The site should provide for measurements at the following distances:

Below 2 MHz—limitation on the size of the test site usually makes it necessary to extrapolate measured data to determine the variation of field strength with distance at the site by measuring a known signal at several points and plotting measured field strength vs. distance.

2-25 MHz—30 meters.  
25-1000 MHz—3 meters.

1-40 MHz—3 meters or less. The minimum measurement distance depends both on radiation characteristics of the device to be tested and the dimensions of the measuring antenna.

NOTE.—Instrumentation limitations and Commission requirements may dictate altering these distances in some cases.

(c) It is recommended that every site be provided with a ground screen. If the site is partially or wholly enclosed in a shelter, or lies partly or wholly over an area that is paved or of non-uniform conductivity, a ground screen is mandatory. For a site to be acceptable without a ground screen, the earth within the area must be uniform and of good conductivity. Any pipes or cables within the site shall be buried to such a depth that they have negligible effect on the measurements.

(d) To provide assurance that the site is free from the effects of reflections or other discontinuities, site attenuation measurements shall be made pursuant to Bulletin OCE 44.

#### § 2.954 Changes in measurement facilities.

The description of the measurement facilities shall be kept current at all times. When a change in these facilities

is made, an amendment to the description filed pursuant to Section 2.951 shall be submitted.

#### § 2.955 Update of filed information.

The accuracy of the description filed pursuant to Section 2.951 shall be verified every three years by the person(s) or organization that filed the description. If this verification is not received approval of the site for use in making equipment authorization measurements may be withdrawn.

#### § 2.956 Exemptions.

The description of measurement facilities is not required for measurements of a decoder device used to detect the EBS Attention Signal, as defined in Section 73.906 of this chapter.

2. Section 2.963 is amended by adding a new paragraph (e) to read as follows:

#### § 2.963 Application for type approval.

(e) The applicant shall attach a report of measurements showing that the equipment complies with the technical specifications applicable to the equipment.

3. Section 15.38 of Part 15 is deleted and the word [Reserved] is inserted as follows:

#### § 15.38 [Reserved]

##### APPENDIX A

FEDERAL COMMUNICATIONS COMMISSION, OFFICE OF THE CHIEF ENGINEER, WASHINGTON, D.C. 20554

##### Bulletin OCE 44

#### CALIBRATION OF A RADIATION MEASUREMENT SITE—SITE ATTENUATION

1. The suitability of a test site used to make radiation measurements may be best determined by measuring the site attenuation. This information will reveal the existence of ground discontinuities which could invalidate measurements of radiation.

2. Site attenuation should be measured over the frequency range 25-1,000 MHz at the distance(s) to be used for actual measurements (commonly 30 or 3 meters). Measurements should be made at 25 MHz intervals in the range 25-300 MHz and at 50 MHz intervals in the range 300-1,000 MHz. Site attenuation data should be furnished for each measurement distance as a plot of attenuation versus frequency over the range 25-1,000 MHz. If anomalies occur when plotting the data pursuant to paragraph 4.1 below, additional measurements should be made around that point(s) to determine the extent of the anomaly.

3. To measure site attenuation follow steps 3.1 through 3.10. See Figure 1.

3.1 Set a signal generator on the turntable at the location of the equipment under test. Connect the signal generator output to a radiating antenna through a balun or other transformer to match the generator output to the antenna.

3.2 Basic site attenuation should be measured with an adjustable dipole antenna as the radiating antenna connected to the signal generator. The adjustable dipole antenna to be used is similar to that used with the field strength meter (FSM). The radiating antenna should be adjusted to

proper length for each frequency of measurement. It should be set up for horizontal polarization at a height of H as specified in Figure 1 oriented for maximum radiation toward the location of the measuring instrument which may be a field strength meter or a spectrum analyzer.

3.3 In some measuring procedures, the antenna to be used with the device under test is specified. IEEE Standard 187 for measuring radiation from an FM or TV receiver calls for a specified dipole. EIA Standard RS-378 for measuring radiation from an FM or TV receiver stipulates the use of the EIA-Laurel antenna developed at the FCC Laboratory. If the site will be used to make radiation measurements pursuant to these procedures, additional site attenuation curves must be submitted to the Commission using the particular antenna and antenna height called for in the standard. If the EIA-Laurel antenna is used, a 50-300 ohm balun must be inserted between the signal generator and the antenna and the balun attenuation must be subtracted from the measured site attenuation.

3.4 Set up the FSM connected to its antenna which must be tuned to the frequency of the signal generator.

3.5 Set the output level of the signal generator at a value that gives an FSM reading significantly above the ambient noise level or interfering signals from other sources. Record the signal generator reading.

3.6 Measure the horizontal component of the field strength at the location of the FSM. Find the maximum value of the field strength by raising and lowering the measuring antenna over the search distance specified in Figure 1. Note the reading of the FSM.

3.7 Move the signal generator to the location of the FSM and connect it directly to the input terminals of the FSM (through a suitable matching network, if necessary).

3.8 Adjust the signal generator attenuator to give the same FSM reading as that recorded in 3.5. Record the signal generator reading.

3.9 Alternatively for a 3 meter measurement site, to avoid moving the signal generator, a suitable length of coaxial cable can be attached to the output of the signal generator. This cable must be matched to the signal generator output impedance. The cable becomes an integral part of the signal generator and is used both to provide the source signal and the calibrating (FSM comparison) signal.

3.10 The site attenuation is the difference in dB between the attenuator setting of the signal generator recorded in 3.5 and that in 3.8, with due accounting of the losses, if any, of the matching network required at the signal generator.

NOTE.—Do not adjust the data by applying corrections for antenna factor or cable loss of the cable from the FSM to its antenna.

#### 4. Report of site attenuation.

4.1 Plot the site attenuation data on 2 cycle, semi-log factor graph paper with frequency as the abscissa on the log scale and site attenuation in dB as the ordinate on the linear scale. See Figure 2.

4.2 Specify on the graph the radiating antenna that was used with the signal generator.

4.3 Specify on the graph the distance of separation between the radiating antenna (connected to the signal generator) and the measuring antenna (connected to the FSM).

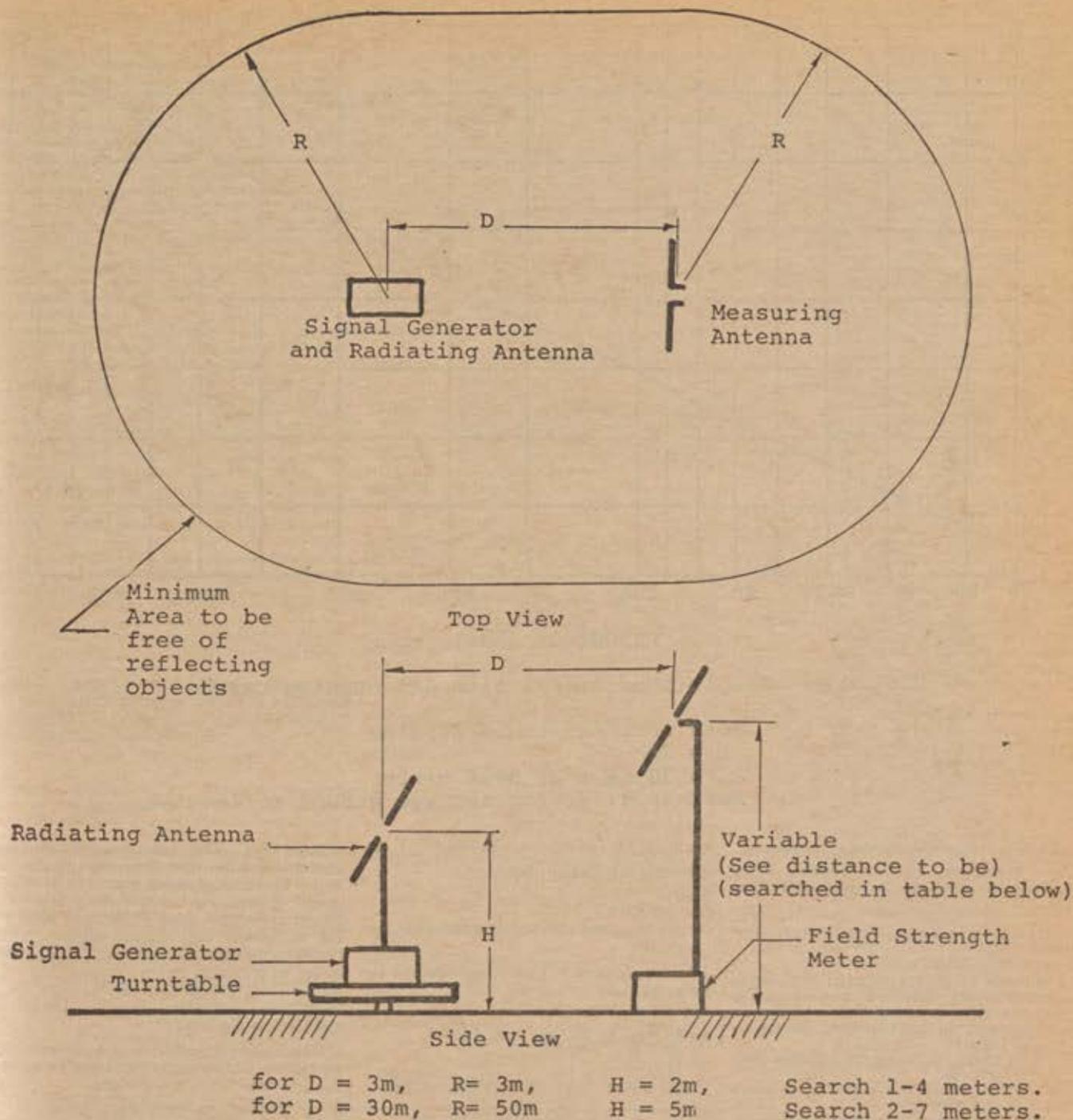


FIGURE 1. Equipment Arrangement for Measuring Site Attenuation of a Radiation Test Site.

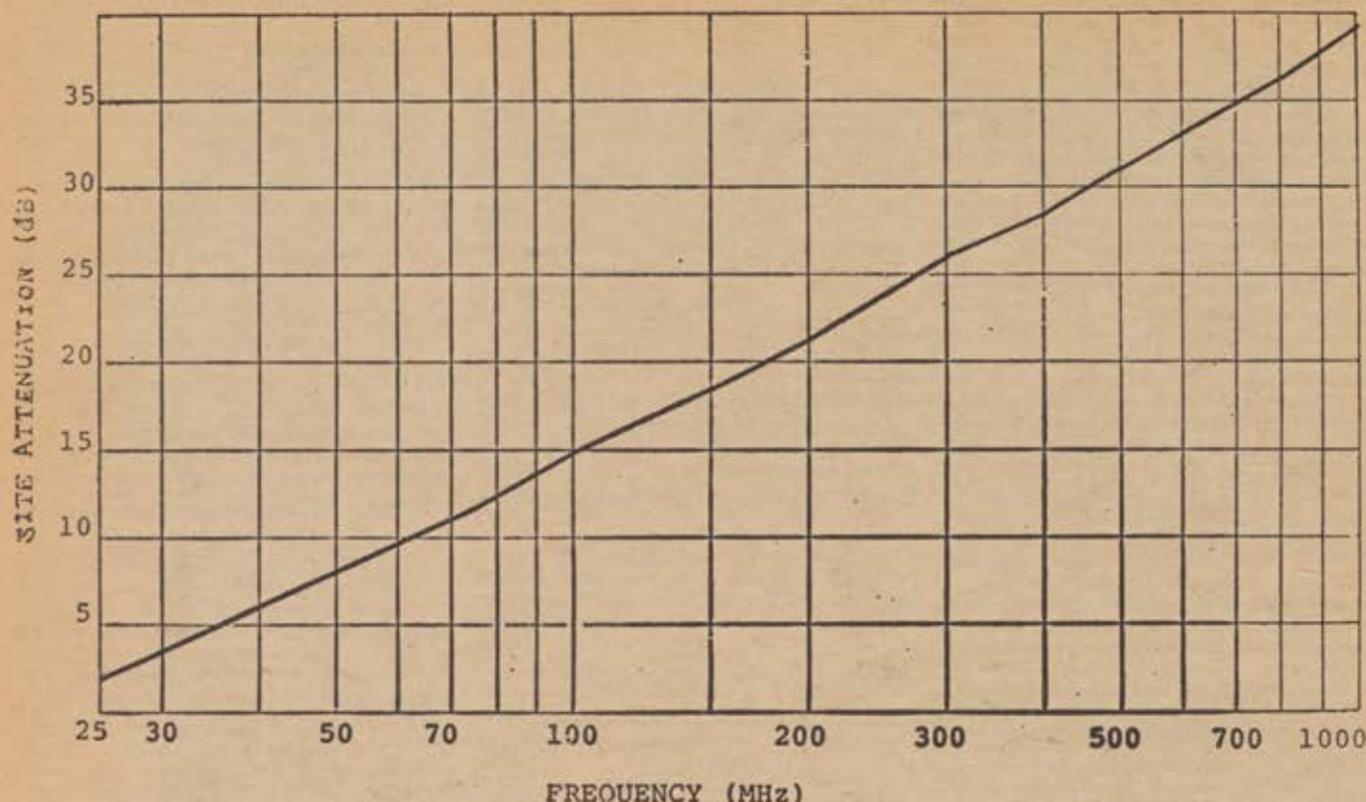


FIGURE 2. Sample Theoretical Site Attenuation Curve.

Both antennas tuned dipoles  
 $D = 3m$   
 $C_a = 30$  feet of RG58 cable  
 Assumes 4.7dB for average ground reflection

#### GENERAL EQUATION FOR SITE ATTENUATION

The theoretical site attenuation of a measurement site can be calculated from equation (1).

$$A = 20 \log_{10} D + 20 \log_{10} F_m - G_s - G_r + C_a - 32.3 \quad (1)$$

where  
 $A$  = Site attenuation in dB.  
 $D$  = Distance in meters between the source (transmitting) antenna and receiving (FSM search) antenna.

$F_m$  = Frequency in megahertz of the transmitted signal.

$G_s$  = Gain in dB of the source antenna relative to isotropic.

$G_r$  = Gain in dB of the receiving antenna relative to isotropic.

$C_a$  = Cable attenuation in dB (a function of frequency).

Equation (1) assumes a 3.7dB value as the average of the ground reflected component.

Average figures for  $C_a$ —cable attenuation—are given in Figure 40, page 22-41, of the ITT Reference Data for Radio Engineers, 5th edition. However, since variations in these values exist not only because of the conditions of the cable being used but also because of variation in the characteristics of cable produced by various manufacturers, it is preferable that the actual cable attenuation be measured by standard techniques.

If two tuned dipoles are used as the source and receiving antennas  $G_s = G_r = 2.5$  dB and equation (1) becomes:

$$A = 20 \log_{10} D + 20 \log_{10} F_m + C_a - 36.6 \quad (2)$$

Sample calculation: Let

$D = 3m$ .

$F_m = 100$  MHz.

$C_a$  = Attenuation of 30 feet of RG58 cable.  
 $= 2$  dB.

—Source antenna and receiving antennas are tuned dipoles.

Using equation (2):

$$A = 20 \log_{10} 3 + 20 \log_{10} 100 + 2 - 36.6$$

$$= 9.5 + 40 + 2 - 36.6$$

$$= 14.9 \text{ dB}$$

[FR Doc.77-26194 Filed 9-8-77;8:45 am]

### INTERSTATE COMMERCE COMMISSION

[ 49 CFR Part 1242 ]

[No. 36622]

#### SEPARATION OF COMMON OPERATING EXPENSES BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE FOR RAILROADS

Proposed Revision to Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and order.

**SUMMARY:** The Interstate Commerce Commission has adopted a revision to the Rules Governing the Separation of Common Operating Expenses Between Freight Service and Passenger Service for Railroads (Separation Rules). This revision updates the current Separation Rules to conform to the revised Uniform System of Accounts (USOA) (49 CFR Part 1201) served on June 24, 1977, under Docket No. 36367.

**DATES:** Comments must be received on or before October 12, 1977. Proposed effective date: January 1, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. John A. Grady, Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone 202-275-7565.

**SUPPLEMENTARY INFORMATION:** The basic content of the Separation Rules is substantially changed by the revised USOA (Docket No. 36367). The revised USOA operating expense account structure includes separate account for labor, material, and other expenses. The Separation Rules maintain this distinction which has permitted the improvement of the rationale for allocation bases.

Secondly, the revised USOA requires carriers to maintain separate accounts for solely related freight, solely related passenger, and common expenses. Consequently, the Separation Rules no longer address the assignment of solely related expenses but focus on the allocation of common expenses between solely related freight and passenger services.

Thirdly, the USOA prescribes that operating expenses be maintained by certain activities and subactivities. For example, the Way and Structure Activity includes the subactivities of Running, Switching and Other. As a result, the Separation Rules need not contain regulations that define activity/subactivity accounting.

The revised Separation Rules continue to use fully shared cost concepts in which freight and passenger services are each assigned full and fairly allocated portions of total expenses. The allocation bases developed for the revised rules utilize certain operating statistics, solely related freight passenger ratios, and other common account apportionments. We specifically solicit comments and suggestions from interested parties on the allocation bases used in the revised Separation Rules.

Accordingly, it is proposed that Part 1242 of Title 49 of the Code of Federal Regulations be amended to read as follows:

H. G. HOMME, JR.,  
Acting Secretary.

**PART 1242—SEPARATION OF COMMON OPERATING EXPENSES BETWEEN FREIGHT SERVICE AND PASSENGER SERVICE;<sup>1</sup> RAILROADS**

- LIST OF INSTRUCTIONS**
- Sec. 1242.0 Separation of common operating expenses.
- GENERAL**
- 1242.01 Expenses solely related to freight service and passenger service.
- 1242.02 Common expenses.
- 1242.03 Made by accounting divisions.
- 1242.04 Special tests.
- 1242.05 Operating expense account number notation.
- 1242.06 Instructions for separation.
- OPERATING EXPENSES—WAY AND STRUCTURES**
- 1242.10 Administration—track (accounts XX-19-02).
- 1242.11 Administration—bridges and buildings (accounts XX-19-03).
- 1242.12 Administration—signals (accounts XX-19-04).
- 1242.13 Administration—communications (accounts XX-19-05).
- 1242.14 Administration—other (accounts XX-19-06).
- 1242.15 Roadway, Tunnels and subways, Bridges and culverts, Ties, Rails, Other track material, Ballast, Track laying and surfacing, and Road property damaged (accounts XX-17-10 to XX-18-12, inclusive; 21-17-13 to 21-18-16, inclusive; XX-17-17, XX-18-17, XX-17-48 and XX-18-48).

<sup>1</sup> The accounts mentioned in this Part refer to and agree with Part 1201 of this Chapter.

- Sec. 1242.16 Road property damaged—other (accounts XX-19-48).
- 1242.17 Signals and interlockers (accounts XX-17-19 and XX-18-19).
- 1242.18 Communication systems (accounts XX-19-20).
- 1242.19 Electric power systems (accounts XX-19-21).
- 1242.20 Highway grade crossings (accounts XX-17-22 and XX-18-23).
- 1242.21 Station and office buildings (accounts XX-19-23).
- 1242.22 Shop buildings—locomotives (accounts XX-19-24).
- 1242.23 Shop buildings—freight cars (accounts XX-13-25).
- 1242.24 Shop buildings—other equipment (accounts XX-19-26).
- 1242.25 Locomotive servicing facilities (accounts XX-19-27).
- 1242.26 Miscellaneous buildings and structures (accounts XX-19-28).
- 1242.27 Coal marine terminals, Ore marine terminals, TOPC/COPC terminals, Other marine terminals, Motor vehicle loading and distribution facilities, and Facilities for other specialized service operations (accounts XX-13-29 to XX-13-35, inclusive).
- 1242.28 Roadway machines, Small tools and supplies, and Snow removal (accounts XX-19-36 to XX-19-38, inclusive).
- 1242.29 Fringe benefits (accounts 12-17-00, 12-18-00, 12-19-00).
- 1242.30 Dismantling retired road property and Depreciation (accounts XX-17-39, XX-18-39, XX-19-39, 62-17-00, 62-18-00, and 62-19-00).
- 1242.31 Lease Rentals—debit and credit, and Other rents—debit and credit (accounts 31-17-00, 31-18-00, 31-36-17-00, 36-18-00 and 36-19-00, 35-17-00, 35-18-00, 35-19-00, 36-17-00, 36-18-00, and 36-19-00).
- 1242.32 Joint facility rents—debit and credit, and Other rents—debit and credit (accounts 33-17-00, 33-18-00, 33-19-00, 34-17-00, 34-18-00, 34-19-00, 37-17-00, 37-18-00, 37-19-00, 38-17-00, 38-18-00, and 38-19-00).
- 1242.33 Other expenses and Casualties and Insurance (accounts XX-17-99, XX-18-99, XX-19-99, 50-17-00, 50-18-00, and 50-19-00).

- EQUIPMENT—LOCOMOTIVES**
- Sec. 1242.34 Administration (accounts XX-26-01).
- 1242.35 Repair and maintenance (accounts XX-26-41).
- 1242.36 Machinery repair and Equipment damaged (accounts XX-26-40 and XX-26-48).
- 1242.37 Dismantling retired property and Depreciation (accounts XX-26-39 and 62-26-00).
- 1242.38 Fringe benefits (account 12-26-00). Other rents—debit and credit, and Repairs billed to other (accounts 31-26-00, 32-26-00, 35-26-00, and 40-26-98).
- 1242.40 Joint facility rents—debit and credit, Joint facility—debit and credit (accounts 33-26-00, 34-26-00, 37-26-00 and 38-26-00).
- 1242.41 Other and Casualties and Insurance (accounts XX-26-99 and 50-26-00).

**EQUIPMENT—FREIGHT CARS**

- Sec. 1242.42 Administration, Repair and maintenance, Machinery repair, Equipment damaged, Dismantling retired property, Fringe benefits, Other Casualties and Insurance, Lease rentals, Joint facility rents, Other rents, Depreciation, Joint facility, Repairs billed to others, and Other (accounts XX-22-01, XX-22-42, XX-22-40, XX-22-48, XX-22-39, 12-22-00, 50-22-00, 31-22-00 to 38-22-00 inclusive, 62-22-00, 40-22-98, and XX-22-99).

**EQUIPMENT—OTHER EQUIPMENT**

- 1242.43 Administration (accounts XX-27-01).
- 1242.44 Trucks, trailers, and containers—revenue service and Floating equipment—revenue service (accounts XX-23-43 and XX-23-44).
- 1242.45 Passenger and other revenue equipment (accounts XX-27-45).
- 1242.46 Computers and data processing equipment (account XX-27-46).
- 1242.47 Machinery (accounts XX-27-40).
- 1242.48 Work and other non-revenue equipment (accounts XX-27-47).
- 1242.49 Equipment damaged (accounts XX-27-48).
- 1242.50 Fringe benefits (accounts 12-27-00).
- 1242.51 Dismantling retired property and Depreciation (accounts XX-27-39 and 62-27-00).
- 1242.52 Lease rentals—debit and credit, Other rents—debit and credit, and Repairs billed to others—credit (accounts 31-27-00, 32-27-00, 35-27-00, and 36-27-00, and 40-27-98).
- 1242.53 Joint facility rents—debit and credit and Joint facility—debit and credit accounts 33-27-00, 34-27-00, 37-27-00 and 38-27-00).
- 1242.54 Other and Casualties and Insurance (accounts XX-27-99 and 50-27-01).

**TRANSPORTATION—TRAIN OPERATIONS**

- 1242.55 Administration (accounts XX-51-01).
- 1242.56 Engine crews and Train crews (accounts XX-51-56 and XX-51-57).
- 1242.57 Dispatching trains (accounts XX-51-58).
- 1242.58 Operating signals and interlockers, Operating drawbridges, and Highway crossing protection (accounts XX-51-59, XX-51-60 and XX-51-62).
- 1242.59 Train inspection and lubrication (accounts XX-51-62).
- 1242.60 Locomotive fuel, Electric power purchased/produced for motive power, and Servicing locomotives (accounts XX-51-67, XX-51-68 and XX-51-69).
- 1242.61 Freight lost or damaged—solely related (to train) (account 51-51-00).
- 1242.62 Clearing wrecks (accounts XX-51-63).
- 1242.63 Fringe benefits (account 12-51-00).
- 1242.64 Joint facility—debit and credit (accounts 37-51-00 and 38-51-00).
- 1242.65 Other and Casualties and Insurance (accounts XX-51-99 and 50-51-00).

## TRANSPORTATION—YARD OPERATIONS

- Sec.  
1242.66 Administration (accounts XX-52-01).  
1242.67 Switch crews; Controlling operations; Yard and terminal clerical; Operating switches, signals, retarders, and humps; locomotive fuel; Electric power purchased/produced for motive power; and Servicing locomotives (accounts XX-52-64, XX-52-65, XX-52-66, XX-52-69, XX-52-67, XX-52-68, and XX-52-69).  
1242.68 Freight lost or damaged—solely related (to yard) (account 51-52-00).  
1242.69 Clearing wrecks (accounts XX-52-63).  
1242.70 Fringe benefits (account 12-52-00).  
1242.71 Joint facility—debit and credit (accounts 37-52-00 and 38-52-00).  
1242.72 Other and Casualties and insurance (accounts XX-52-99 and 50-52-00).

## TRANSPORTATION—TRAIN AND YARD OPERATIONS COMMON

- 1242.73 Cleaning car interiors and Freight lost and damaged—all other (accounts XX-53-70 and 51-53-00).  
1242.74 Adjusting and transferring loads and Car loading devices and grain doors (accounts XX-33-71 and XX-33-72).  
1242.75 Fringe benefits (account 12-53-00).

## TRANSPORTATION—SPECIALIZED SERVICE OPERATIONS

- 1242.76 Administration; Pickup and delivery, marine line haul and rail substitute service; Loading, unloading and local marine; Protective services; Freight lost or damaged—solely related; Fringe benefits; Casualties and insurance Joint facility—debit and credit; and Other (accounts XX-34-01, XX-34-73, XX-34-74, XX-34-75, 51-34-00, 12-34-00, 50-34-00, 37-34-00, 38-34-00, and XX-34-99).

## TRANSPORTATION—ADMINISTRATIVE SUPPORT OPERATIONS

- 1242.77 Administration (accounts XX-55-01).  
1242.78 Employees performing clerical and accounting functions, and Loss and damage claims processing (accounts XX-55-76 and XX-55-78).  
1242.79 Communication systems operations (accounts XX-55-77).  
1242.80 Fringe benefits (account 12-55-00).  
1242.81 Joint facility—debit and credit (accounts 37-55-00 and 38-55-00).  
1242.82 Other and Casualties and insurance (accounts XX-55-99 and 50-55-00).

## GENERAL AND ADMINISTRATION

- 1242.83 Officers—general superintendence; Accounting, auditing and finance; Management services and data processing; Personnel and labor relations; Legal and secretarial; Research and development; Writedown of uncollectible accounts; Property taxes; Other taxes except on corporate income or payrolls; and Other (accounts XX-63-01, XX-63-86, XX-63-87, XX-63-91, XX-63-92, XX-63-94, 63-63-00, 64-63-00, 65-63-00, and XX-63-99).

- 1242.84 Marketing, Sales, and Public relations and advertising (accounts XX-63-88, XX-63-89, and XX-63-93).  
1242.85 Fringe benefits (account 12-63-00).  
1242.86 Industrial development (accounts XX-61-90).  
1242.87 Joint facility—debit and credit and Casualties and insurance (accounts 37-63-00, 38-63-00 and 50-63-00).

## LIST OF INSTRUCTIONS

## § 1242.0 Separation of common operating expenses.

(a) Commencing with annual or quarterly reports for the year 1978 or for any portion thereof until further order, all Class I railroad companies including Class I switching and terminal companies (Section 1240.1 of this chapter) subject to section 20 of the Interstate Commerce Act as amended shall separate operating expenses common to both freight service and passenger service in accordance with the regulation in this part.

(b) The carrier shall report common expense apportionments to the Commission as required by annual or other reports.

## GENERAL

## § 1242.01 Expenses solely related to freight service and passenger service.

The Uniform System of Accounts for Railroad Companies (49 CFR Part 1201) requires that carriers assign directly to freight service or to passenger service, including allied services, the expenses, taxes and purchased services incurred

solely for the benefit of either freight or passenger service.

## § 1242.02 Common expenses.

The Uniform System of Accounts also requires that carriers assign to common expense accounts the remaining expenses, taxes and purchased services which are not solely related to either freight or passenger service. The following instructions govern the separation of common expense accounts between freight and passenger services.

## § 1242.03 Made by accounting divisions.

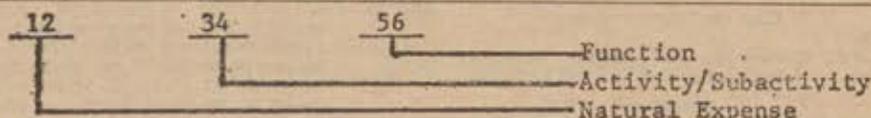
The separation shall be made by accounting divisions, where such divisions are maintained, and the aggregate of the accounting divisions reported for the quarter and for the year.

## § 1242.04 Special tests.

When the separation of common expense accounts between freight and passenger services is based upon special tests or service unit factors, such tests shall be made at sufficiently frequent intervals to represent actual operating conditions. The service unit factors used are those of the reporting period.

## § 1242.05 Operating expense account number notation.

(a) The operating expense account numbers consist of a six-digit coding structure divided into three two-digit groups. The first two-digit group denotes natural expenses; the second group denotes activities/subactivities for freight, passenger or common services; and the third group signifies applicable function assignment.



(b) For reporting purposes, four natural expense categories are utilized. The categories are: Salaries and wages (accounts 11-XX-XX); material, tools, supplies, fuels and lubricants (accounts 21-XX-XX); purchased services (accounts 31-XX-XX to 41-XX-XX, inclusive); and general (accounts 61-XX-XX to 65-XX-XX, inclusive, 51-XX-XX, 52-XX-XX, 53-XX-XX and 12-XX-XX).

(c) The symbol "XX" in the first two-digit group is used throughout the separation instructions to denote more than one natural expense associated with the same activity/subactivity-function account structure. For reporting purposes, the natural expense account numbers represented by "XX" include:

- 11—Salaries and wages.  
21—Materials, tools, supplies, fuels, lubricants.  
30 or 41—Purchased services.  
30—Summation of certain purchased service accounts.  
41—Other purchased services.  
61—General.

(d) The "30" natural expense designation indicates a summation of specific purchased service accounts that are re-

ported in total rather than individually. The specific accounts under the Way and Structures Activity except for administration functions include 39-1X-XX, Repairs Billed by Others, Dr.; 40-1X-XX, Repairs Billed to Others, Cr.; and 41-1X-XX, Other Purchased Services. For the Equipment Activity excluding administration functions, the "30" designation denotes the summation of 39-2X-XX and 41-2X-XX.

(e) The "41" natural expense designation (Other Purchased Services) is the purchased service category of the "XX" code for the following:

- (1) Way and structures activity administration-function accounts,  
(2) Equipment activity administration-function accounts,  
(3) Transportation activity expense accounts, and  
(4) General and administration activity expense accounts.

(f) The "61" general natural expense designation is applicable to all accounts with the "XX" symbol except transportation, train and yards accounts (XX-(33/43/53)-XX).

(g) The natural expense account number "50" is used throughout the

separation instructions to indicate the summation of accounts 52-XX-XX, Other casualties, and 53-XX-XX, Insurance, that are reported as one item, "Casualties and Insurance," (50-XX-XX).

(h) The number "98" in the function account group (last two digits) is used to designate the summation of a natural expense consisting of more than one functional assignment that is reported as one item. This includes Repairs Billed to Others, Cr.—Equipment (40-2X-XX). For example, the locomotive subactivity containing accounts 40-(21/24/26)-40, 40-(21/24/26)-41, and 40-(21/24/26)-48 are reported as 40-(21/24/26)-98.

**§ 1242.06 Instructions for separation.**

(a) Certain instructions for separating common expense accounts (dependent accounts) between freight and passenger services base the allocation on the proportional freight/passenger separation of other common expense accounts (independent accounts). The dependent account is frequently identified by an "XX" symbol in the natural expense position (first two digits) with corresponding independent accounts also identified by the "XX" natural expense symbol. Unless otherwise stated, the applicable natural expense associated with the "XX" symbol shall be the same for both the dependent and independent accounts.

(b) To illustrate, § 1242.10 provides instructions for separating common Way and Structures, Administration—Track Accounts (dependent accounts) designated by XX-19-02. The separation is based on certain other common Way and Structures accounts including Roadway-Running, XX-17-10, and Roadway-Switching, XX-18-10.

(c) As § 1242.05 states, the "XX" symbol denotes the following natural expenses for Way and Structures administration functions:

- 11—Salaries and wages,
- 21—Materials, tools, supplies, fuels, lubricants,
- 41—Other purchased services, and
- 61—General.

These natural expenses shall be individually applied to the separation rules in § 1242.10. In each case, the independent accounts providing the basis for freight/passenger separation of the dependent account shall have the same natural expense designation. For example, the basis of separating account 11-19-02, Salaries and Wages, Way and Structures, Administration—Track, would be based on certain independent accounts including 11-17/18-10, Salaries and Wages, Way and Structures, Running/Switching, Repair and Maintenance, Roadway.

**OPERATING EXPENSES  
WAY AND STRUCTURES**

**§ 1242.10 Administration - track (Accounts XX-19-02).**

Separate common administration-track expenses between freight and passenger services in the same proportion as the common expenses of the following

accounts are separated between freight and passenger services:

- Roadway:
  - Running (XX-17-10).
  - Switching (XX-18-10).
- Ties:
  - Running (21-17-13).
  - Switching (21-18-13).
- Rails:
  - Running (21-17-14).
  - Switching (21-18-14).
- Other Track Materials:
  - Running (21-17-15).
  - Switching (21-18-15).
- Ballast:
  - Running (21-17-16).
  - Switching (21-18-16).
- Track Laying and Surfacing:
  - Running (XX-17-17).
  - Switching (XX-18-17).
- Road Property Damaged:
  - Running (XX-17-48).
  - Switching (XX-18-48).
  - Other (XX-19-48).
- Roadway Machines (XX-19-36).
- Snow Removal (XX-19-38).
- Dismantling Retired Road Property:
  - Running (XX-17-39).
  - Switching (XX-18-39).
  - Other (XX-19-39).

**§ 1242.11 Administration—bridges and buildings (Accounts XX-19-03).**

Separate common administration—bridges and buildings expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

- Tunnels and Subways:
  - Running (XX-17-11).
  - Switching (XX-18-11).
- Bridges and Culverts:
  - Running (XX-17-12).
  - Switching (XX-18-12).
- Electric Power Systems (XX-19-21).
- Station and Office Buildings (XX-19-23).
- Shop Buildings:
  - Locomotives (XX-19-24).
  - Other Equipment (XX-19-26).
- Locomotive Servicing Facilities (XX-19-27).
- Miscellaneous Buildings and Structures (XX-19-28).

**§ 1242.12 Administration—signals (Accounts XX-19-04).**

Separate common administration—signals expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services.

- Signals and Interlockers:
  - Running (XX-17-19).
  - Switching (XX-18-19).

**§ 1242.13 Administration—Communications (Accounts XX-19-05).**

Separate common administration—communications expenses between freight and passenger services in the same proportion as the common expenses of the following accounts are separated between freight and passenger services:

- Communications Systems (XX-19-20).

**§ 1242.14 Administration—other (Accounts XX-19-06).**

Separate common administration—other expenses between freight and passenger services in the same proportion

as the common expenses of the following accounts are separated between freight and passenger services:

- Administration:
  - Track (XX-19-02).
  - Bridges and Buildings (XX-19-03).
  - Signals (XX-19-04).
  - Communications (XX-19-05).

**§ 1242.15 Roadway, tunnels and subways, bridges and culverts, ties, rails, other track material, ballast, track laying and surfacing, and road property damaged (Accounts XX-17-10 to XX-18-12 inclusive, 21-17-13 to 21-18-16 inclusive, XX-17-17, XX-17-48 and X-18-48).**

(a) The expenses for running and switching subactivities shall be separated between freight service and passenger service as follows:

(1) *Switching Tracks.*—(i) *Yard.* Expenses for yards used in common by freight and passenger services shall be apportioned on the basis of the respective switching locomotive unit-hours in the common yards. (ii) *Way.* Where the tracks at any one location are used in common by both freight and passenger services, expenses may be assigned to that service which makes the dominant use of them.

(2) *Running Tracks.* The expenses of tracks used in common by both services shall be apportioned on the basis of gross ton-miles (including locomotive ton-miles) handled over these tracks in the respective services.

**§ 1242.16 Road property damaged—other (Accounts XX-19-48).**

Separate common expenses in proportion to the total common expenses assigned to freight/passenger from the following Way and Structures accounts:

- Road Property Damaged—Running (XX-17-48).
- Road Property Damaged—Switching (XX-18-48).

**§ 1242.17 Signals and interlockers (Accounts XX-17-19 and XX-18-19).**

Separate common expenses on the basis of the total train-hours in running service, and/or the yard-switching plus train switching hours in the switching service over the tracks on which the common signals and interlockers are used.

**§ 1242.18 Communication Systems (Accounts XX-19-20).**

Separate common expenses on the basis of the common expense separation in:

- Way and Structures—Administration—Track, Bridges and Culverts, and Signals (Accounts XX-19-02 to XX-19-04, inclusive).
- Equipment—Administration—Locomotives and Other Equipment (Accounts XX-26-01 and XX-27-01).
- Transportation—Administration—Train, Yard, and Administrative Support (Accounts XX-51-01, XX-52-01, and XX-55-01).
- Dispatching Trains (Accounts XX-51-58).

**§ 1242.19 Electric Power Systems (Accounts XX-19-21).**

Separate common expenses on basis of common expenses of electric power

purchased or produced for motive power (Accounts XX-51-68 and XX-52-68).

§ 1242.20 Highway Grade Crossings (Accounts XX-17-22 and XX-18-22).

Separate running and switching common expenses according to distribution of the running and switching portions only of common expense accounts listed in § 1242.10, Administration-Track (Accounts XX-19-02).

§ 1242.21 Station and Office Buildings (Accounts XX-19-23).

If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. If the sum of the direct freight and the direct passenger expenses does not aggregate to more than 50 percent of the total charges for an accounting division, the common expenses should be separated on the basis of special test. Where common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, the common expenses shall be separated on the basis of a special study.

§ 1242.22 Shop buildings—Locomotives (Accounts XX-19-24).

Separate common expenses according to distribution of common expenses in the following accounts:

Machinery Repair (XX-26-40).  
Locomotive—Repair and Maintenance (XX-26-41).

§ 1242.23 Shop Buildings—Freight Cars (Accounts XX-13-25).

These accounts pertain solely to freight service and contain no common expense for separation herein.

§ 1242.24 Shop Buildings—other equipment (Accounts XX-19-26).

Assign directly to freight (or as particular facts suggest otherwise).

§ 1242.25 Locomotive Servicing Facilities (Accounts XX-19-27).

Separate common expenses according to distribution of common expenses in the following accounts:

Locomotive Fuel (XX-51-67 and XX-52-67).  
Electric Power Purchased or Produced for Motive Power (XX-51-68, XX-52-68).  
Servicing Locomotives (XX-51-69 and XX-52-69).

§ 1242.26 Miscellaneous Buildings and Structures (Accounts XX-19-28).

Separate common expenses as specific facts indicate or according to distribution of common expenses listed in section 1242.11, Administration-Bridges and Buildings (Accounts XX-19-03).

§ 1242.27 Coal marine terminals, ore marine terminals, TOFC/COFC terminals, other marine terminals, motor vehicle loading and distribution facilities, and facilities for other specialized service operations (Accounts XX-13-29 to XX-13-35, inclusive).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.28 Roadway machines, small tools and supplies, and snow removal (Accounts XX-19-36 to XX-19-38, inclusive).

Separate common expenses according to distribution of common expenses listed in § 1242.14, Administration—Other (Accounts XX-19-06).

§ 1242.29 Fringe benefits (Accounts 12-17-00, 12-18-00, and 12-19-00).

Separate common expenses in the running subactivity in the same proportion as the salaries and wages, way and structures, common expenses in all accounts with a designated running subactivity. Separate common expenses in the switching subactivity in the same proportion as the salaries and wages, way and structure, common expense accounts with a designated switching activity. Separate common expenses in the other subactivity in the same proportion as the salaries and wages, way and structures, common expenses in all accounts with a designated other subactivity.

§ 1242.30 Dismantling retired road property and depreciation (Accounts XX-17-39, XX-18-39, XX-19-39, 62-17-00, 62-18-00 and 62-19-00).

Separate common expenses in each account for each subactivity (running, switching and other) in proportion to the separation of common repair and maintenance expenses associated with the particular common properties depreciated and/or dismantled.

§ 1242.31 Lease Rentals—debit and credit and other rents—debit and credit (Accounts 31-17-00, 31-18-00, 31-19-00, 32-17-00, 32-18-00, 32-19-00, 35-17-00, 35-18-00, 35-19-00, 36-17-00, 36-18-00, and 36-19-00).

(a) Separate common debit expense accounts in each subactivity (running, switching and other) in proportion to the separation of solely related freight or passenger service in each account. If there are no solely related expenses in an account or if the solely related expenses are assignable entirely to freight or to passenger service, separate common debit expense accounts on the basis of the same percentages calculated for the separation of administration—other (Accounts XX-19-06).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration—other (Accounts XX-19-06).

§ 1242.32 Joint facility rents—debit and credit and joint facility—debit and credit (Accounts 33-17-00, 33-18-00, 33-19-00, 34-17-00, 34-18-00, 34-19-00, 37-17-00, 37-18-00, 37-19-00, 38-17-00, 38-18-00, and 38-19-00).

(a) Solely related (freight or passenger service) debit expense accounts in each subactivity (running, switching and other) shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use by other carriers. Common debit expenses shall be separated on the basis of the percentage separations of the solely related expenses in each individual account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or to passenger service, separate common debit expenses on the same percentages calculated for the separation of administrative—other (Accounts XX-19-06).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration—other (Accounts XX-19-06).

§ 1242.33 Other expenses and casualties and insurance (Accounts XX-17-99, XX-18-99, XX-19-99, 50-17-00, 50-18-00 and 50-19-00).

Separate common expenses on the basis of the percentages calculated for the separation of administrative—other (Accounts XX-19-06).

#### OPERATING EXPENSES—EQUIPMENT LOCOMOTIVES

§ 1242.34 Administration (Accounts XX-26-01).

Separate common expenses according to distribution of common expenses in the following accounts:

Repair and Maintenance (XX-26-41).  
Machinery Repair (XX-26-40).  
Equipment Damaged (XX-26-48).  
Dismantling Retired Property (XX-26-39).  
Depreciation (62-26-00).

§ 1242.35 Repair and maintenance (Accounts XX-26-41).

(a) The carrier maintains records of the repairs by individual locomotive units or classes of locomotive units.

(1) If individual locomotive units or classes of locomotive units are used exclusively in road-freight, road-passenger, yard-freight, or yard-passenger service, the separation shall be actual.

(2) If individual locomotive units or classes of locomotive units are used interchangeably (common) in road-freight (including train-switching), road passenger (including train switching), yard-freight or yard passenger service, separate the heavy shop repairs between these services on the basis of run-out unit miles of individual locomotive units or classes of locomotive units since the previous shopping; and separate the cost of running repairs between such services on the basis of the miles run by the individual locomotive unit or class of

locomotive unit in each service during the accounting period for which the separation is being made.

(b) The carrier maintains records of heavy shop repair costs by individual locomotive units or classes of locomotive units, but does not maintain records of the cost of running repairs by individual locomotive units or classes of locomotive units.

(1) The heavy shop repairs shall be separated as indicated in paragraph (a) of this section.

(2) The common expenses of running repairs shall be separated among road-freight (including train switching), road passenger (including train switching), yard-freight and yard-passenger services on the basis of locomotive unit miles for the accounting period for which the separation is being made.

(c) The carrier does not maintain records of either heavy shop repairs or running repairs by individual locomotive units or classes of locomotive units. The expenses shall be separated among road-freight service (including train-switching), road-passenger service (including train switching), yard freight, and yard passenger services, on the basis of locomotive unit-miles for the accounting period for which the separation is being made.

**§ 1242.36 Machinery repair and equipment damaged (Accounts XX-26-40 and XX-26-48).**

Separate common expenses according to separation of common expenses in repair and maintenance (Accounts XX-26-41).

**§ 1242.37 Dismantling retired property and depreciation (Accounts XX-26-39 and 62-26-00).**

Separate common expenses in each account in proportion to the separation of common repair and maintenance expenses associated with the particular common properties depreciated and/or dismantled.

**§ 1242.38 Fringe Benefits (Account 12-26-00).**

Separate common expenses in proportion to the split of common salaries and wages in administration, locomotive repair and maintenance, machinery repair, equipment damaged, and dismantling retired road property (Accounts 11-26-01, 11-26-41, 11-26-40, 11-26-48, and 11-26-39).

**§ 1242.39 Lease rentals—debit and credit, other rents—debit and credit, and repairs billed to others (Accounts 31-26-00, 32-26-00, 35-26-00, 36-26-00 and 40-26-98).**

(a) Separate common debit expense accounts in proportion to the assignment of solely related freight or passenger service in each individual debit account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common debit expense accounts on the same percentage basis

calculated for the separation of administration (Accounts XX-26-01).

(b) Separate all common credit accounts on the same percentages calculated for the separation of administration (Accounts XX-26-01).

**§ 1242.40 Joint facility rents—debit and credit, and joint facility—debit and credit (Accounts 33-26-00, 34-26-00, 37-26-00 and 38-26-00).**

(a) Solely related freight and passenger debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses; or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX-26-01).

(b) Separate all common credit expense accounts on the same percentages calculated for the separation of administration (Accounts XX-26-01).

**§ 1242.41 Other and casualties and insurance (Accounts XX-26-99 and 50-26-00).**

Separate common expenses on the basis of percentages calculated for the separation of administration (Accounts XX-26-01).

**FREIGHT CARS**

**1242.42 Administration, repair and maintenance, machinery repair, equipment damaged, dismantling retired property, fringe benefits, other casualties and insurance, lease rentals, joint facility rents, other rents, depreciation, joint facility, repairs billed to others, and other (Accounts XX-22-01, XX-22-42, XX-22-40, XX-22-48, XX-22-39, 12-22-00, 50-22-00, 31-22-00 to 38-22-00 inclusive, 62-22-00, 40-22-98 and XX-22-99).**

These accounts pertain solely to freight service and contain no common expenses for separation herein.

**OTHER EQUIPMENT**

**§ 1242.43 Administration (Accounts XX-27-01).**

Separate common expenses according to freight/passenger separation of the following accounts:

Passenger and Other Revenue Equipment (XX-27-45).

Computers and Data Processing Equipment (XX-27-46).

Work and Other Non-Revenue Equipment (XX-27-47).

**§ 1242.44 Trucks, trailers, and containers (Revenue Service) and floating equipment (Revenue Service) (Accounts XX-23-43 and XX-23-44).**

These accounts pertain solely to freight service and contain no common expenses for separation herein.

**§ 1242.45 Passenger and other revenue equipment (Accounts XX-27-45).**

Separate as particular facts suggest.

**§ 1242.46 Computers and data processing equipment (Accounts XX-27-46).**

If the sum of the direct freight and the direct passenger expenses is more than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the accounting division involved. If the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses shall be separated on the basis of a special test. If common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting divisions, follow the intent of the above instructions.

**§ 1242.47 Machinery (Accounts XX-27-40).**

Separate common expenses on the basis of the freight/passenger separation of administration (Accounts XX-27-01).

**§ 1242.48 Work and other non-revenue equipment (Accounts XX-27-47).**

Separate common expenses according to distribution of common expenses in Way and structures—administration—other (Accounts XX-19-06).

**§ 1242.49 Equipment damaged (Accounts XX-27-48).**

Separate common expenses according to distribution of common expenses in machinery, passenger and other revenue equipment, computer and data processing equipment and work and other non-revenue equipment accounts (Accounts XX-27-40, XX-27-45, XX-27-46, and XX-27-47).

**§ 1242.50 Fringe benefits (Account 12-27-00).**

Separate common expenses in proportion to the percentage separation of common salaries and wages in administration (Account 11-27-01).

**§ 1242.51 Dismantling retired property and depreciation (Accounts XX-27-39 and 62-27-00).**

Separate common expenses in proportion to the separation of common repair and maintenance expenses associated with the particular common property depreciated and/or dismantled.

**§ 1242.52 Lease rentals—debit and credit, other rents—debit and credit, repairs billed to others—credit (Accounts 31-27-00, 32-27-00, 35-27-00, 36-27-00, and 40-27-98).**

Separate common debit expense accounts in proportion to the separation of solely related (freight or passenger serv-

ice) in each individual account. If there are no solely related expenses or if the solely related expenses are assignable entirely to freight or passenger service, separate common debit expense accounts on the same percentages calculated for the separation of administration (Accounts XX-27-01).

§ 1242.53 Joint facility rents—debit and credit and joint facility—debit and credit (Accounts 33-27-00, 34-27-00, 37-27-00 and 38-27-00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use made of the facility by other carriers. Common debit expense accounts shall be separated on the basis of the percentage separation of the solely related expenses in each individual account. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX-27-01).

(b) Separate all common credit expense accounts on the basis of the same percentages calculated for the separation of administration (Accounts XX-27-01).

§ 1242.54 Other and casualties and insurance (Accounts XX-27-99 and 50-27-00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX-27-01).

#### TRANSPORTATION—TRAIN OPERATIONS

§ 1242.55 Administration (Accounts XX-51-01).

Separate common expenses according to distribution of common expenses in the following accounts:

Engine Crews (XX-51-56).  
Train Crews (XX-51-57).  
Dispatching Trains (XX-51-58).  
Operating Signals and Interlockers (XX-51-59).  
Operating Drawbridges (XX-51-60).  
Highway Crossing Protection (XX-51-61).  
Train Inspection and Lubrication (XX-51-62).  
Locomotive Fuel (XX-51-67).  
Electric Power Purchased/Produced for Motive Power (XX-51-68).  
Servicing Locomotives (XX-51-69).  
Clearing Wrecks (XX-51-63).

§ 1242.56 Engine crews and train crews (Accounts XX-51-56 and XX-51-57.)

Separate common expenses on the basis of direct assignment or if there are no directly assignable expenses, separate on the basis of train hours, including train switching hours.

§ 1242.57 Dispatching trains (Accounts XX-51-58).

Separate common expenses on the basis of train hours, including train switching hours.

§ 1242.58 Operating signals and interlockers, operating drawbridges, highway crossing protection (Accounts XX-51-59, XX-51-60 and XX-51-61).

Separate common expenses on the basis of total train hours (including train switching hours) of the particular common operating divisions or track segment on which the common signals, interlockers, drawbridges and highway crossings are located.

§ 1242.59 Train inspection and lubrication (Accounts XX-51-62).

Separate common expenses on basis of directly assigned expenses. If there are no directly assignable expenses, separate on the basis of train miles.

§ 1242.60 Locomotive fuel, electric power purchased/produced for motive power and servicing locomotives (Accounts XX-51-67, XX-51-68 and XX-51-69).

Separate common expenses in each account on basis of direct expenses. If there are no direct expenses, separate on the basis of train hours and way-switching service hours.

§ 1242.61 Freight lost or damaged—solely related (to train) (Accounts 51-51-00).

Separate common expenses on the basis of proportion of the solely related expenses assigned to freight and passenger services or on the basis of a special study.

§ 1242.62 Clearing wrecks (Accounts XX-51-63).

Separate common expenses according to specific circumstances.

§ 1242.63 Fringe benefits (Account 12-51-00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages account—administration (Account 11-51-01).

§ 1242.64 Joint facility—debit and credit (Accounts 37-51-00 and 38-51-00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carrier, regardless of the use made of the facility by other carriers. Common debit expense accounts shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to either freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX-51-01).

(b) Separate common credit expense accounts on the basis of the percentages calculated for the separation of administration (Accounts XX-51-01).

§ 1242.65 Other and casualties and insurance (Accounts XX-51-99 and 50-51-00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX-51-01).

#### YARD OPERATIONS

§ 1242.66 Administration (Accounts XX-52-01).

Separate common expenses according to distribution of common expenses in the following accounts:

Switch Crews (XX-52-64).  
Controlling Operations (XX-52-65).  
Yard and Terminal Clerical (XX-52-66).  
Operating Switches, Signals, Retarders and Humps (XX-52-69).  
Locomotive Fuel (XX-52-67).  
Servicing Locomotives (XX-52-69).  
Electric Power Purchased/Produced for Motive Power (XX-52-68).  
Clearing Wrecks (XX-52-63).

§ 1242.67 Switch crews; controlling operations; yard and terminal clerical; locomotive fuel; electric power purchased/produced for motive power; operating switches, signals, retarders, and humps; and servicing locomotives (accounts XX-52-64, XX-52-65, XX-52-66, XX-52-69, XX-52-67, XX-52-68 and XX-52-69).

Separate common expenses on the basis of the distribution of freight and passenger yard switching hours in those yards common to both freight and passenger services.

§ 1242.68 Freight lost or damaged—solely related (to yard) (Account 51-52-00).

Separate common expenses on the basis of the solely related freight and passenger expenses or on the basis of a special study.

§ 1242.69 Clearing wrecks (Accounts XX-52-63).

Separate common expenses according to specific circumstances.

§ 1242.70 Fringe benefits (Account 12-52-00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages administration account (Account 11-52-01).

§ 1242.71 Joint facility—debit and credit (Accounts 37-52-00 and 38-52-00).

(a) Solely related freight and passenger service debit expenses accounts shall be assigned according to the use made of each facility by the reporting carriers, regardless of the use made of the facility by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to freight or passenger service, separate common expenses on the same percentages cal-

culated for the separation of administration (Accounts XX-52-01).

(b) Separate common credit expense account on the basis of the percentages calculated for the separation of administration (Accounts XX-51-01).

§ 1242.72 Other and casualties and insurance (Accounts XX-52-99 and 50-52-00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX-52-01).

#### TRAIN AND YARD OPERATIONS COMMON

§ 1242.73 Cleaning car interiors and freight lost and damaged—all other (Accounts XX-53-70 and 51-53-00).

Separate common expenses on basis of solely related freight and passenger expenses or special study.

§ 1242.74 Adjusting and transferring loads, and car loading devices and grain doors (Accounts XX-33-71 and XX-33-72).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.75 Fringe benefits (Account 12-53-00).

Separate common expenses in proportion to the freight/passenger separation calculated for the salaries and wages—cleaning car interiors common account (Account 11-53-70).

#### SPECIALIZED SERVICE OPERATIONS

§ 1242.76 Administration; pickup and delivery, marine line haul, and rail substitute service; loading, unloading and local marine; protective services; freight lost or damaged—solely related; fringe benefits; casualties and insurance; joint facility, and other (Accounts XX-34-01, XX-34-73, XX-34-74, XX-34-75, 51-34-00, 12-34-00, 50-34-00, 37-34-00, 38-34-00 and XX-34-99).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

#### ADMINISTRATIVE SUPPORT OPERATIONS

§ 1242.77 Administration (Accounts XX-55-01).

Separate common expenses in the same proportion as common expenses are separated in employees performing clerical and accounting functions, communication systems operations and loss and damage claims processing (Accounts XX-55-76, XX-55-77 and XX-55-78).

§ 1242.78 Employees performing clerical and accounting functions, and loss and damage claims processing (Accounts XX-55-76 and XX-55-78).

If the sum of the direct freight and the direct passenger expenses is more

than 50 percent of the total charges to this account for an accounting division, separate the common expenses on the basis of the directly assigned expenses in this account for the particular accounting division. If the sum of the direct freight and the direct passenger expenses does not aggregate 50 percent of the total charges for an accounting division, the common expenses shall be separated on the basis of special test. If common expenses exist in an accounting division but the direct expenses are applicable to only one service, i.e., freight or passenger, and even though the direct charges are over 50 percent of the total charges, the common expenses shall be separated on the basis of a special test. If the accounting is performed on a system basis rather than by accounting division, follow the intent of the above instructions.

§ 1242.79 Communication systems operations (Accounts XX-55-77).

Separate common expenses on basis of total common expense separations in the following administration and dispatching trains accounts:

#### Administration.

##### Way and Structures:

Track (XX-19-02).

Bridges and Structures (XX-19-03).

Signals (XX-19-04).

Other (XX-19-06).

##### Equipment:

Locomotives (XX-26-01).

Other Equipment (XX-27-01).

##### Transportation:

Train Operations (XX-51-01).

Yard Operations (XX-52-01).

Dispatching Trains—Transportation (XX-51-58).

§ 1242-80 Fringe benefits (Account 12-55-00).

Separate common expenses in proportion to the percentage separation calculated for the salaries and wages—administration account (Account 11-55-01).

§ 1242.81 Joint facility—debit and credit (Accounts 37-55-00 and 38-55-00).

(a) Solely related freight and passenger service debit expense accounts shall be assigned according to the use made of each facility by the reporting carriers, regardless of the use made of the facility by other carriers. Common debit expenses shall be separated on the basis of the percentage separation of the solely related expenses. If there are no solely related expenses or if the solely related expenses are assigned entirely to either freight or passenger service, separate common expenses on the same percentages calculated for the separation of administration (Accounts XX-55-01).

(b) Separate common credit expenses on the basis of the percentages calculated for the separation of administration (Accounts XX-55-01).

§ 1242.82 Other and casualties and insurance (Accounts XX-55-99 and 50-55-00).

Separate common expenses on the basis of the percentages calculated for the separation of administration (Accounts XX-55-01).

#### OPERATING EXPENSES, GENERAL AND ADMINISTRATIVE

§ 1242.83 Officers—general superintendence; accounting, auditing and finance; management services and data processing; personnel and labor relations; legal and secretarial; research and development; writedown of uncollectible accounts; property taxes; other taxes except on corporate income or payrolls; and other (Accounts XX-63-01, XX-63-86, XX-63-87, XX-63-91, XX-63-92, XX-63-94, 63-63-00, 64-63-00, 65-63-00 and XX-63-99).

Separate common expenses in proportion to the separation of all other common expenses except General and Administrative Expenses.

§ 1242.84 Marketing, sales, and public relations and advertising (Accounts XX-63-88, XX-63-89 and XX-63-93).

Separate each common expense account on the basis of the solely related freight and passenger expense accounts.

§ 1242.85 Fringe benefits (Account 12-63-00).

Separate the common expenses in proportion to the total common salaries and wages expense separation (Accounts 11-XX-XX) determined in Section 1242.83 and 1242.84.

§ 1242.86 Industrial development (Accounts XX-61-90).

These accounts pertain solely to freight service and contain no common expenses for separation herein.

§ 1242.87 Joint facility—debit and credit and casualties and insurance (Accounts 37-63-00, 38-63-00 and 50-63-00).

Separate the common expenses in proportion to the total of all common expense separations determined in §§ 1242-83 and 1242.84 above.

NOTE.—If compilation of the data in compliance with any of the above separation rules results in an undue burden in accounting expense, the carrier may request relief from such rules by letter to the Director, Bureau of Accounts. If reliable data can be developed through other methods and procedures, the carrier may request substitution of such methods also by letter to the Director, Bureau of Accounts. In both cases, the carrier shall support the request with full details.

[PR Doc.77-26365 Filed 9-8-77; 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.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service CERTAIN STOCKYARDS AND LIVESTOCK MARKETS

#### Approval

The regulations in 9 CFR Part 76, as amended, contain restrictions on the interstate movement of swine and swine products to prevent the spread of hog cholera and other swine diseases. This document adds certain livestock markets to the list of livestock markets approved for purposes of the regulations on the basis of a determination of their eligibility for such approval under § 76.18 of the regulations and removes from the list certain other livestock markets which have been found no longer to qualify for such approval.

The following livestock markets preceded by an asterisk are specifically approved to handle any class of swine and those livestock markets not preceded by an asterisk are specifically approved to handle slaughter swine only:

#### ALABAMA

Casey's Selma Stockyard, Selma.  
\*Hodges Stockyard, Inc., Montgomery.  
Pickens County Livestock Commission Co., Aliceville.  
\*Winfield Livestock Commission Co., Winfield.

#### ARKANSAS

Central Livestock Auction, Inc., Morrilton.  
Oia Livestock Market, Oia.  
White Livestock Auction, Russellville.

#### COLORADO

Clougherty Packing Co., Greeley.

#### GEORGIA

B. H. Harrison Livestock Co., Bainbridge.  
Miller Livestock Co., Colquitt.

#### IDAHO

\*Rexburg Livestock Auction, Inc., Rexburg.

#### ILLINOIS

\*Paris Livestock Sales Co., Paris.

#### IOWA

\*Bowman Order Buyers, De Witt.  
\*Porth & Baxter, De Witt.

#### KANSAS

\*Coffeyville Livestock Sales Co., Inc., Coffeyville.  
\*Concordia Sales Co., Concordia.  
\*Clay Center Livestock Co., Inc., Clay Center.  
Farmland Foods, Seneca.  
\*Goodland Livestock Commission Co., Inc., Goodland.  
\*Hays Livestock Market Center, Inc., Hays.  
\*J. J. Livestock Commission Co., Effingham.  
\*Mid-Kansas Swine Improvement Association, Hutchinson.  
\*Moline Auction Co., Inc., Moline.

#### KENTUCKY

\*Clark County Livestock Market, Winchester.  
Elizabeth NFO Reload, Elizabethtown.  
\*Farmers Livestock Marketing Corp., Russellville.  
\*NFO Collection Point, Walton.  
Purchase Reload NFO, Fancy Farm.  
\*Good Day Stockyards, Princeton.  
\*Garfield Auction Barn, Garfield.

#### MINNESOTA

\*Minnesota Feeder Pig Market, Inc., Morris.  
\*Lewiston Livestock Market, Lewiston.  
\*Skeldon Feeder Pig Market, Bemidji.  
\*Speldrich Feeder Pig Market, Belgrade.

#### MISSOURI

\*Brookfield Livestock Auction, Inc., Brookfield.  
\*Jack Civils Sales Co., Inc., Butler.  
\*McDonald County Sale Co., Jane Meyer Livestock, Granada.  
\*Mid-West Livestock Market, Inc., Nevada.  
\*Moberly Auction Co., Inc., Moberly.  
\*Mountain View Sales Co., Mountain View.  
\*Platte County Livestock Co., Platte City.  
Richland Livestock, Richland.  
\*Savannah Sales Co., Savannah.  
\*Summersville Livestock Market, Summersville.  
\*Van Meter Auction, Kingsville.

#### NEBRASKA

\*Creighton Livestock Market, Inc., Creighton.  
\*Huss Platte Valley Auction, Inc., Kearney.  
\*Midwest Livestock Commission Co., Inc., McCook.  
\*Pawnee Livestock Inc., Pawnee City.  
\*Platte Valley Livestock Auction, Inc., Gering.

#### NORTH CAROLINA

Bill Martin, Greensboro.  
Turner's Livestock, Inc., Elizabeth City.  
William A. Crofton Livestock Market, Rowland.  
W. H. Horney, Siler City.

#### NORTH DAKOTA

\*Bowman Livestock Auction Market, Bowman.  
\*Park River Livestock Exchange, Park River.

#### SOUTH DAKOTA

\*Eureka Sales Co., Eureka.  
\*Herreid Livestock Market, Herreid.

#### TENNESSEE

\*Warren County Livestock Assn., McMinnville.

#### VIRGINIA

Blackstone Livestock Market, Blackstone.  
Caret Livestock Market, Caret.  
\*Madison Livestock Market, Inc., Madison Mills.  
Orange Livestock Market, Orange.  
\*Petersburg Livestock Market, Petersburg.  
Roanoke-Hollins Stockyard, Hollins.

#### WISCONSIN

Peshtigo Livestock Sales, Peshtigo.

The following livestock markets are deleted from the specifically approved lists:

#### ALABAMA

\*Hodges Stockyard, Inc., Montgomery.  
Pickens County Livestock Co., Aliceville.

#### FLORIDA

\*H. S. Camp & Sons, Ocala.

#### IDAHO

Rexburg Livestock Auction, Inc., Rexburg.

#### ILLINOIS

Paris Livestock Sales Co., Paris.

#### IOWA

\*Marshall County Feeder Pig Association, Marshalltown.

#### KANSAS

\*Clay Center Livestock, Inc., Clay Center.  
\*Coffeyville Livestock Sales, Coffeyville.  
\*Goodland Livestock Auction, Goodland.  
\*Hays Livestock Commission Co., Inc., Hays.  
\*Mid-Kansas Pig Station, Hutchinson.

#### KENTUCKY

Clinton Livestock Reload Collection Point, Clinton.  
\*Garfield Auction Market, Garfield.  
\*Farmers Livestock Feeder Pig Sale, Mayfield.  
\*Logan County Livestock Market, Inc., Russellville.  
Louisa Stockyards, Louisa.  
Nichols Stockyard, Milburn.  
Smith Livestock Co., Symsonia.  
\*Winchester Stockyards, Winchester.

#### MINNESOTA

\*Rushford Feeder Pig Tel-O-Auction, Rushford.

#### MISSISSIPPI

Buckhalter Assembly Point, Newhebron.

#### MISSOURI

De Berry Livestock Exchange, Richland.  
Dillard Livestock Order Buyers, Auxvasse.  
\*Farmers Auction Co., Mountain View.  
\*Linn County Auction, Inc., Brookfield.  
\*McDonald County Livestock Market, Jane Meyer.  
\*Moberly Auction Co., Moberly.  
NFO Collection Point, Chillicothe.  
\*Platte County Sale Co., Platte City.  
Tarkio Hog Yards, Tarkio.  
Tarkio NFO Collection Point, Tarkio.  
\*Summersville Auction Sale, Summersville.  
\*Urbana Livestock Auction, Urbana.

#### NEBRASKA

\*Midwest Livestock Co., McCook.  
\*Pawnee Livestock Co., Pawnee City.

#### NORTH DAKOTA

\*Park River Livestock Sales, Inc., Park River.  
\*Penfield Auction Yards, Bowman.

#### NORTH CAROLINA

J & P Livestock Co., Inc., Fairmont.  
Robeson Livestock Co., Inc., Rowland.  
Turner's Livestock Market, Elizabeth City.

#### PENNSYLVANIA

Eskey Buying Station, Littlestown.  
\*Stockton's Livestock Auction, Union City.  
\*Perkiomenville Sales Stables, Inc., Perkiomenville.

#### SOUTH DAKOTA

\*Eureka Livestock Commission Co., Eureka.  
\*Herreid Livestock Commission Co., Herreid.

## TENNESSEE

- Caldwell Livestock, Inc., Jackson.  
 \*McMinnville Area Feeder Pig Sale, McMinnville.  
 \*Weakley County Feeder Pig Sale, Dresden.

## TEXAS

- \*Montgomery County Feeder Pig Sales, Clarksville.

## VIRGINIA

- Caret Livestock Commission Co., Caret.  
 Madison Livestock Market, Inc., Madison Mills.  
 \*Orange Livestock Market, Inc., Orange.  
 Roanoke-Hollins Livestock Market, Hollins.

## WISCONSIN

- \*Midwest Livestock Producers, Peshtigo.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 5, 23 Stat. 32, as amended; sec. 1, 75 Stat. 481; sec. 1, 32 Stat. 791, as amended; secs. 3 and 4, 33 Stat. 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 114g, 120, 125, 126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19140).)

**Effective date.** The foregoing notice shall become effective on September 9, 1977.

This action imposes certain restrictions necessary to prevent the spread of hog cholera and relieves certain restrictions presently imposed. It should become effective promptly to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable and contrary to the public interest, and good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of September 1977.

NOTE.—The Animal and Plant Health Inspection 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.

**J. K. ATWELL,**  
*Acting Deputy Administrator,*  
*Veterinary Services.*

[FR Doc. 77-26268 Filed 9-8-77; 8:45 am]

## Soil Conservation Service

## BUCK CREEK WATERSHED, ET AL.

## Authorization for Watershed Planning

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, Pub. L. 83-566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190.

Persons interested in these projects may contact the State Conservationists listed below:

Buck Creek Watershed, Covington County, Ala., State Conservationist—William B. Lingle, Soil Conservation Service, Wright Building, 138 South Gay St., P.O. Box 311, Auburn, Ala. 36830.

Saint David Watershed, Cochise County, Ariz., State Conservationist—Thomas G. Rockenbaugh, Soil Conservation Service, 230 North 1st Ave., 3008 Federal Building, Phoenix, Ariz. 85025.

Tyrone River Watershed, Miss., and Poinsett Counties, Ark., State Conservationist—Maurice J. Spears, Soil Conservation Service, Federal Building, Room 5029, 700 West Capitol St., P.O. Box 2323, Little Rock, Ark. 72203.

Track Ditch Watershed, Chaffee County, Colo., State Conservationist—Robert G. Halstead, Soil Conservation Service, Room 313, 2490 West 26th Ave., P.O. Box 17107, Denver, Colo. 80217.

Rock Creek Watershed, Cassia, Oneida, and Power Counties, Idaho, State Conservationist—Amos I. Garrison, Jr., Soil Conservation Service, Room 345, 304 North 8th St., Boise, Idaho 83702.

Lower Des Plaines Tributaries Watershed, Lake, Cook, Will, and DuPage Counties, Ill., State Conservationist—Daniel E. Holmes, Soil Conservation Service, Federal Building, 200 West Church St., P.O. Box 678, Champaign, Ill. 61820.

Hackiebarney Watershed, Montgomery and Adams Counties, Iowa, State Conservationist—William J. Bruns, Soil Conservation Service, 823 Federal Building, 210 Walnut St., Des Moines, Iowa 50309.

Parkhurst Siding Watershed, Aroostook County, Maine, State Conservationist—Warwick M. Tinsley, Jr., Soil Conservation Service, USDA Building, University of Maine, Orono, Maine 04473.

Stevens-Callahan Watershed, Lancaster, Cass, and Saunders Counties, Nebr., State Conservationist—Benny Martin, Soil Conservation Service, Federal Building—U.S. Courthouse, Room 345, Lincoln, Nebr. 68508.

Dry Creek Watershed, Lincoln County, Okla., State Conservationist—Roland R. Willis, Soil Conservation Service, Agricultural Center Office Building, Farm Rd. and Brumley St., Stillwater, Okla. 74074.

Thomas-Cottonwood Creek Watershed, Lake County, Oreg., State Conservationist—Guy W. Nutt, Soil Conservation Service, Federal Office Building, 16th Floor, 1220 Southwest 3rd Ave., Portland, Oreg. 97204.

Quittapahilla Creek Watershed, Lebanon County, Pa., State Conservationist—Graham T. Munkittrick, Soil Conservation Service, Federal Building and U.S. Courthouse, Box 985, Federal Square Station, Harrisburg, Pa. 17108.

Six-Mile Creek Watershed, Brookings and Deuel Counties, S.Dak., State Conservationist—Robert D. Swenson, Soil Conservation Service, 239 Wisconsin Ave., SW., P.O. Box 1357, Huron, S.Dak. 57350.

Wolf Creek Watershed, Gibson and Carroll Counties, Tenn., State Conservationist—Donald C. Bivens, Soil Conservation Service, 561 U.S. Courthouse, Nashville, Tenn. 37203.

Upper Appomattox River Watershed, Appomattox, Buckingham, Cumberland, and Prince Edward Counties, Va., State Conservationist—David N. Grimwood, Soil Conservation Service, Federal Building, Room 9201, 400 North 8th St., P.O. Box 10026, Richmond, Va. 23240.

Swale Creek Watershed, Klickitat County, Wash., State Conservationist—Galen S. Bridge, Soil Conservation Service, 360 U.S. Courthouse, West 920 Riverside Ave., Spokane, Wash. 99201.

Middle Grave Creek Watershed, Marshall County, W. Va., State Conservationist—Craig M. Right, Soil Conservation Service, U.S. Post Office and Federal Office

Building, P.O. Box 865, Morgantown, W. Va. 26505.

Dated: September 2, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

**R. M. DAVIS,**  
*Administrator,*  
*Soil Conservation Service.*

[FR Doc. 77-26286 Filed 9-8-77; 8:45 am]

**Rural Electrification Administration**  
**MINNKOTA POWER COOPERATIVE**  
**Final Environmental Impact Statement**

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a long guarantee commitment from the Rural Electrification Administration for Minnkota Power Cooperative of Grand Forks, N. Dak. This loan guarantee commitment will assist in obtaining financing to purchase a 30 percent share in a new 440 MW generating plant to be constructed near Beulah, N. Dak., with associated transmission facilities.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after October 11, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after the requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 8th day of September 1977.

**DAVID A. HAMIL,**  
*Administrator, Rural Electrification Administration.*

[FR Doc. 77-26524 Filed 9-8-77; 10:12 am]

**COMMISSION ON CIVIL RIGHTS**  
**CALIFORNIA ADVISORY COMMITTEE**  
**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. on September 30, 1977, and will end at 6:00 p.m. at the Biltmore Hotel, 514 South Olive Street, Los Angeles, Calif. 90013.

Persons wishing to attend this open meeting should contact Committee

Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to bring together Immigration Experts who can provide information on immigration and naturalization law and the Department's policies, procedures and practices. These Experts will also analyze problems faced by legal aliens and undocumented workers with the immigration system.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1977.

JOHN I. BINKLEY,  
Advisory Committee Management  
Officer.

[FR Doc. 77-26282 Filed 9-8-77; 8:45 am]

#### HAWAII ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee (SAC) of the Commission will convene at 7 p.m. on September 27, 1977, and end at 9:30 p.m. at the Ala Moana Hotel, 451 Atkinson Drive, Honolulu, Hawaii 96814.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss the restructuring of the Advisory Committee and to continue plans for the immigration Seminar.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 6, 1977.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 77-26283 Filed 9-8-77; 8:45 am]

#### CIVIL SERVICE COMMISSION

##### PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

##### Public Availability of Report of Activities

Pursuant to section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 of March 27, 1974, the President's Commission on White House Fellowships has prepared a report on its activities during fiscal year 1977.

The report is available for public inspection and copying at the following location:

U.S. Civil Service Commission, President's Commission on White House Fellowships, 1900 E Street NW., Washington, D.C. 20415.

DONALD J. BIGLIN,  
Advisory Committee Management  
Officer, U.S. Civil Service  
Commission.

[FR Doc. 77-26241 Filed 9-8-77; 8:45 am]

#### DEPARTMENT OF THE TREASURY

##### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Revenue Sharing, Office of Deputy Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE  
COMMISSION,

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.

[FR Doc. 77-26062 Filed 9-8-77; 8:45 am]

#### DEPARTMENT OF COMMERCE

##### Bureau of the Census

##### CENSUS ADVISORY COMMITTEE OF THE AMERICAN STATISTICAL ASSOCIATION

##### Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V, 1975)), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on September 29 and 30, 1977 at 9 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the September 29 meeting, which will adjourn at 6 p.m. is: (1) Topics of current interest at the Bureau of the Census; (2) review of published Bureau revisions to the Manufacturers' Shipments, Inventories, and Orders Series; (3) review of the process for setting Census Bureau program priorities; (4) coverage improvements

for the 1980 census; (5) evaluation of the Survey of Income and Education; and (6) development of Committee recommendations.

The agenda for the September 30 meeting, which will adjourn at 12:30 p.m. is: (1) Committee discussion of recommendations; (2) progress report on the National Science Foundation—American Statistical Association—Census Bureau Program to Improve the Social Science Data Base; (3) progress report on the new Census programs for fuels and energy; (4) professional audit review team for the Federal Government's energy conservation—progress report; (5) Census Bureau responses to prior Committee recommendations, and the status of specific Bureau activities described at earlier Committee meetings; and (6) recommendations, plans, and suggested agenda items for the next meeting.

The meeting will be open to the public, and a brief period will be set aside on September 30 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. James L. O'Brien, Assistant Chief, Statistical Research Division, Bureau of the Census, Room 3573, Federal Building 3, Suitland, Md. (mail address: Washington, D.C. 20233); telephone 301-763-5350.

MANUEL D. PLOTKIN,  
Director, Bureau of the Census.

SEPTEMBER 6, 1977.

[FR Doc. 77-26303 Filed 9-8-77; 8:45 am]

#### Domestic and International Business Administration

##### SUBCOMMITTEE ON EXPORT ADMINISTRATION OF THE PRESIDENT'S EXPORT COUNCIL

##### Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Friday, September 30, 1977, at 9:00 a.m., in Room 4830 of the Department of Commerce, Washington, D.C.

The Subcommittee on Export Administration was initially established on June 1, 1976. On January 6, 1977, the Assistant Secretary for Administration approved the recharter and extension through December 31, 1978, of the Subcommittee, pursuant to the provisions of Section 3 of Executive Order 11753 (De-

ember 20, 1973), as extended by Section 1(k) of Executive Order 11948 (December 20, 1976), and the Federal Advisory Committee Act.

The Subcommittee advises the Secretary of Commerce on matters pertinent to those portions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq.) that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

The Subcommittee meeting agenda has seven parts:

**GENERAL SESSION**

9:00-10:30

I. Unfinished business; Demo Policy; MacAvoy Report; Service Licenses; Bucy Report; Brief Explanation of the Export Administration Amendments of 1977; Simplification & Clarification of Export Administration Regulations.

II. Future Agenda Topics.

III. Panel Presentation on National Security & Foreign Policy Export Controls.

IV. Other Business.

(Coffee Break)

**EXECUTIVE SESSION**

10:45-4:00

V. Discussion of Panel's Presentation.

(Lunch)

VI. Update on COCOM List Review Preparations.

VII. Discussion of Technology Transfer Control Policy.

The General Session is open to the public. 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.

With respect to Agenda Items V, VI and VII, the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 11, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act (Pub. L. 94-409), that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Order 11652 to be kept secret in the interest of the national defense or foreign policy. Materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close portions of the series of meetings of the Subcommittee on Export Administration of the President's Export Council is printed at 42 FR 3011 (January 14, 1977).

Copies of the minutes of the General Session will be available upon written request addressed to Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, Room 1886-C, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Brady either in writing at the address shown above or by telephone at 202-377-4188.

Dated: September 1, 1977.

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
for Domestic Commerce.

[FR Doc. 77-26058 Filed 9-8-77; 8:45 am]

**Maritime Administration**

**LIST OF FREE WORLD AND POLISH VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963**

**Notice**

The National Security Action Memorandum No. 220, dated February 5, 1963, which prohibited the shipment of U.S. Government-owned or financed cargoes from the United States on foreign flag vessels if such vessels had called at a Cuban port on or after January 1, 1963, was rescinded by the National Security Council effective June 10, 1977.

In accordance with this action, the list of free world and Polish vessels arriving in Cuba since January 1, 1963, as noticed in the FEDERAL REGISTER issue of February 28, 1963 (28 FR 2011), and subsequent notices, is hereby discontinued.

By Order of the Assistant Secretary for Maritime Affairs.

Dated: September 1, 1977.

ROBERT J. BLACKWELL,  
Assistant Secretary for  
Maritime Affairs.

[FR Doc. 77-26265 Filed 9-8-77; 8:45 am]

[Docket No. S-577]

**STATES STEAMSHIP CO.**

**Application**

Notice is hereby given that States Steamship Co. has applied for written permission from the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, for the carriage of passengers between California and Hawaii. Such written permission will be required in the event a new long-term operating-differential subsidy contract is concluded between States and the Maritime Subsidy Board, which long-term contract has been the subject of hearing before the Board in Docket S-447.

States has also applied for a short-term interim contract as described in the FEDERAL REGISTER of August 26, 1977 (42 FR 43112). In the event such a short-term contract application is granted, written permission for the above-described domestic service will be required under section 805(a).

As information, all of the vessels of States, both RO/RO and C4 types, have capacity for carrying 12 passengers each.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, Fourteenth and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on Sept. 19, 1977 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or inter-coastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By order of the Assistant Secretary for Maritime Affairs.

Dated: September 6, 1977.

JAMES S. DAWSON, JR.,  
Secretary.

[FR Doc. 77-26264 Filed 9-8-77; 8:45 a.m.]

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**TEXTILE CATEGORY SYSTEM**

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending Textile Category System.

SUMMARY: The Textile Category System, published in the FEDERAL REGISTER on August 10, 1977, is hereby amended by the changing of Tariff Schedules of the United States Annotated (TSUSA) numbers 382.0403 and 382.7805, Body Suits, from Category 639, Knit Shirts and Blouses, Women's, Girls' and Infants' to Category 659, Other Apparel. These changes are necessary to provide desired uniformity in the system. The Textile Category System is used in the bilateral textile agreements negotiated with other countries under the Arrange-

## NOTICES

Class 5999

Circuit Card Assembly, 5999-00-111-4957.

SIC 0782

Grounds Maintenance, Fort Ord, Calif. For areas 1 thru 24 only.

C. W. FLETCHER,  
Executive Director.

[FR Doc.77-26270 Filed 9-8-77;8:45 am]

## PROCUREMENT LIST 1977

## Proposed Deletions

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

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1977 a commodity produced by and services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodity and services from Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 6532

Cap. Operating, Surgical, 6532-00-543-7378.

SIC 0872

Grounds Maintenance, Federal Aviation Administration, Palmdale, Calif.

SIC 7699

Repair and Maintenance of Adding Machines and Calculators, For the following locations: 1515 Broadway, 32 Old Slip, 26 Federal Plaza and U.S. Customs at 6 World Trade Center, New York, N.Y.

C. W. FLETCHER,  
Executive Director.

[FR Doc.77-26271 Filed 9-8-77;8:45 am]

COUNCIL ON ENVIRONMENTAL  
QUALITY

## ENVIRONMENTAL IMPACT STATEMENTS

## Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from August 29 through September 2, 1977. The date of receipt for each statement is noted in the statement summary. Un-

der Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 24, 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 are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

## DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250 (202-447-6827).

## FARMERS HOME ADMINISTRATION

## Draft

Megan Heights, Proposed Plat, Kitsap County, Wash., September 1: The proposed action is a request to subdivide 46 acres of wooded, undeveloped land into 148 lots for single-family detached dwelling units. The property involved in the proposed plat is approximately one mile from the unincorporated community of Manchester and fronts on the west side of California Avenue north of Polk Street. Adverse effects include the clearing of trees for roadway and residence construction, and the destruction of wildlife habitat caused by vegetation removal. (ELR Order No. 71016.)

## FOREST SERVICE

## Draft

Maumelle-Saline Unit Plan, Ouachita National Forest, Perry, Saline, and Garland Counties, Ark., August 30: The proposed action is to manage, administer, and utilize the forest resources of the Maumelle-Saline Unit, Ouachita National Forest, from October 1, 1976 to September 30, 1986 in accordance with the management direction in the Maumelle-Saline Unit Plan. This plan covers 66,590 acres of National Forest land located on the Winona and Jesseville Ranger Districts. Major actions include regeneration cutting on 6,800 acres in pine working group; construction of 8 miles of new road, reconstruction of 42 miles and restoration of 104 miles of existing roads; and construction of 11 family camping units and 1 group unit at Lake Sylvia Recreation Area. (ELR Order No. 71070.)

## Final

Allegheny National Forest Timber Management Plan, several counties in Pennsylvania, August 29: Proposed is the establishment of a new 8-year timber management plan for the Allegheny National Forest, Pennsylvania, for the period July 1, 1976 through June 30, 1984. As a result of the sell program portion of the plan, an estimated 66 MCF (40 MMBF) of sawtimber and 84 MCF (106 M cords) of pulpwood per year will be harvested. Timber management activities may affect air and water quality and soil will be subjected to erosive forces. Other negative impacts include alteration of landscape and the loss of some roadless areas. Comments made by: DOI, USDA, EPA, State and local agencies and interest groups. (ELR Order No. 71062.)

Francis Marion National Forest Land Management Plan, Berkeley and Charleston Counties, S.C., August 29: The proposed

ment Regarding International Trade in Textiles. Recent negotiations under this Arrangement revealed that the placing of man-made fiber body suits in Category 639 was inconsistent with the placement of cotton body suits which were placed in Category 359. Cotton Body suits are not identified specifically in the TSUSA and are grouped in TSUSA's which include certain other knit wearing apparel. Full descriptions of the TSUSA numbers covered by this notice are available in the TSUSA.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4212).

ARTHUR GAREL,  
Acting Chairman, Committee  
for the Implementation of  
Textile Agreements, U.S. Department of Commerce.

[FR Doc.77-26274 Filed 9-8-77;8:45 am]

COMMITTEE FOR PURCHASE FROM  
THE BLIND AND OTHER SEVERELY  
HANDICAPPED

## PROCUREMENT LIST 1977

## Proposed Additions

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

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 a commodity to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 12, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

action is the implementation of a ten year management plan for the 249,412 acre Francis Marion National Forest in South Carolina. The plan provides for suitable public access as well as sustained yield of timber through silvicultural activities. Adverse effects include soil compaction, visual changes, periodic lowered air quality, increased noise levels and impacts related to limited use of pesticides. Comments made by: USDA, COE, EPA, DOI, State agencies, concerned groups, and individuals. (ELR Order No. 71064.)

#### Supplement

Central Nevada Unit, Toiyabe National Forest (S-1), several counties in Nevada, August 29: This statement supplements an EIS filed with CEQ in 1976. The Toiyabe Chapter of the Sierra Club and the Friends of Nevada Wilderness requested reconsideration of the decision to implement the land use plan regarding areas not selected for wilderness study. This statement involves the reconsideration of the wilderness study area alternative. After re-inventory and re-evaluation, two additional wilderness study areas have been recommended. These are located adjacent to the Arc Dome and Arc Dome Extension Wilderness Study Area, and provide an undeveloped foreground for these areas. (ELR Order No. 71053.)

#### RURAL ELECTRIFICATION ADMINISTRATION

##### Final

Gamerco Coal Mine, New Mexico, McKinley County, N. Mex., August 29: Proposed is the development, by Arizona Electric Power Cooperative, Inc., of 8,011 acres of land, located approximately 3 miles northwest of the City of Gallup, as a coal stripmine facility. Associated with the mine will be a proposed coal washing plant with associated settling and freshwater holding ponds, coal loadout facility, 2.1 mile railroad spur, 116 one-hundred-ton coal railroad cars, shops and offices, deepwater well, haul roads, and substation. Adverse effects include disturbances to topography, soils, air quality, and archaeological resources. Comments made by: DOI, USDA, EPA, DOT, and State agencies. (ELR Order No. 71052.)

#### SOIL CONSERVATION SERVICE

##### Draft

Southeast Choctawhatchee River Watershed, Dale, Houston, and Geneva Counties, Ala., September 1: Proposed is a project for watershed protection, land stabilization, and recreation to be implemented under authority of the Watershed Protection and Flood Prevention Act. The planned works of improvement include accelerated conservation land treatment, critical area treatment and roadside stabilization, stabilization of about 600 gullies, and construction of a 780-acre single-purpose recreation lake and recreational facilities. The project will reduce erosion and improve scenic and aesthetic qualities of the watershed. Adverse impacts include increased air and water pollution during project construction. (ELR Order No. 71085.)

##### Final

Marshyhope Creek Watershed, Maryland and Delaware, September 2: Proposed is the implementation of a plan for watershed protection, flood prevention, and drainage for Kent and Sussex Counties, Delaware, and Carolina and Dorchester Counties, Maryland, to be installed by the local sponsors with Federal assistance. The project consists of land treatment measures of 104,798 acres and about 260 miles of multi-purpose channel work. Adverse effects include the drainage of approximately 1,100 acres of type 1 and type 2 wetlands and 72 acres of type 7 wetlands immediately adjacent to the channels. Grass-

land will be decreased by 2,360 acres. Comments made by: DOC, HEW, DOI, EPA, AHP, State and local agencies. (ELR Order No. 71090.)

#### DEPARTMENT OF COMMERCE

##### OFFICE OF COASTAL ZONE MANAGEMENT

Contact: Dr. William Aron, Director, Office of Ecology and Environmental Conservation, NOAA, Room 5813, Department of Commerce, Washington, D.C. 20230 (202-377-5181).

##### Final

Rookery Bay Estuarine Sanctuary, Collier County, Fla., August 29: The proposed action is to award a grant to the State of Florida to acquire, develop, and operate an estuarine sanctuary in Rookery Bay. Boundaries of the existing 5,400 acre, privately maintained Rookery Bay Sanctuary would be expanded to include adjacent mangrove and upland transitional areas resulting in about 8,500 acres of land and water under State control. The action may result in potential conflicts between the sanctuary and adjacent owners in terms of drainage projects, mosquito control activities, and restrictions imposed by scientific research. Comments made by: USDA, USAF, HUD, DOI, NRC, GSA, DOC, and environmental groups. (ELR Order No. 71065.)

#### DEPARTMENT OF DEFENSE

##### ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202-694-4269).

##### Final

Rocky Mountain Arsenal, Pilot Containment Operations, Adams County, Colo., August 29: The proposed action is the construction and operation of a pilot system for contaminated ground-water containment at Rocky Mountain Arsenal, Colorado. The proposed system consists of a ground-water collection subsystem, a water purification subsystem, and a ground-water recharge subsystem. This will be the first step taken toward compliance with Cease and Desist Orders issued by the State of Colorado against Rocky Mountain Arsenal. Alternatives to the action include no action and delayed action. Comments made by: HEW, DOI, EPA, State and local agencies. (ELR Order No. 71054.)

#### DEPARTMENT OF DEFENSE

##### Final

Bald Eagle 78—Joint Readiness Exercise, Florida, September 2: Proposed is the execution of Bold Eagle 78, a Joint Readiness Exercise, at the Eglin AFB Test Range Complex from Oct. 24 to Oct. 30, 1977. The objectives are to exercise and evaluate the planning and execution of an air superiority campaign; strategic deployment and tactical employment; and the planning and use of electronic warfare to penetrate air defense systems. Adverse impacts include increased air contamination through use of explosives, damage to underbrush and habitat caused by track vehicle operations, and disturbance of the Red-Cockaded Woodpecker and Okaloosa Darter, both endangered species. Comments made by: DOI, USDA, DOC, HEW, DOT, EPA, State and local agencies. (ELR Order No. 71091.)

#### DEPARTMENT OF DEFENSE

##### ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-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

Dickey-Lincoln School Lakes, Maine/Canada, Arrostook County, Maine, August 31: Proposed is the construction of a combination hydroelectric, flood control, and recreation project in northern Maine along the St. John River. Two earth-filled dams would impound 7.7 million acre feet of water at maximum pool heights; five dikes would be constructed to prevent flowage to other watersheds. The project would provide 830,000 KW of electric capacity and 1.2 billion kwh annually of peaking energy and 262 million kwh annually of intermediate range energy to the New England system. Adverse effects include relocation of 161 families in the project area. (New England Division.) (ELR Order No. 71083.)

Jarvis Creek Navigation Improvements, Northumberland County, Va., August 31: Proposed is the improvement of navigation at Jarvis Creek by dredging a channel about 2,000 feet long with a bottom width of 80 feet and total depth of 10 feet. Approximately 44,000 cubic yards of highly organic marine silts and clay will be removed by hydraulic pipeline dredge and disposed of in a 10-acre confined upland site. Adverse effects include displacement and extirpation of the flora and fauna of 1 10-acre terrestrial area, and increased suspended solids during dredging with potential for decreased dissolved oxygen. (Norfolk District.) (ELR Order No. 71080.)

##### Supplement

Trexler Lake Project (S-2), Lehigh County, Pa., September 1: This statement supplements a final EIS filed with CEQ in 1973. Proposed is an earth and rockfill embankment 130 feet high at the maximum section. The dam would have a surface area of 1,220 acres and extend about 8.6 miles upstream when filled to the top of the conservation pool. Relocation of 3.4 miles of roads, as well as power and telephone lines would occur. The recreation plan includes four public access recreation areas along the lake. Adverse effects include modification of the present environmental setting, the conversion of 8.6 miles of free-flowing stream to slack water, the acquisition of 50 percent of Lowhill Township, and the loss of productive farmland. (ELR Order No. 71086.)

#### 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.

##### Draft

North-Central Ocean Basin Wastewater Facility, Worcester County Md., August 29: Proposed is a regional wastewater treatment facility for the North-Central Ocean Basin area, Maryland. The project consists of four major components: Expansion of the Ocean City sewage treatment plant (STP) from a capacity of 12 to 20.5 mgd., construction of a 8.9 mgd.-capacity Mainland STP near West Ocean City, installation of a regional interceptor system, and local wastewater treatment and disposal. The Ocean City facility would receive wastewater only from Ocean City. The service area of the West Ocean City facility would include West Ocean City, Berlin, the community of Ocean Pines and extensive areas along the major highways

in the proposed service area. (Region III.) (ELR Order No. 71059.)

Martha's Vineyard Water Quality Plan, Massachusetts, August 29: Proposed is a water quality management plan for Martha's Vineyard, Massachusetts. The program has been developed to protect the Island's waters in three areas of concern: The protection of the groundwater and its recharged areas; the protection of coastal waters including harbors and areas of shell and fin-fish production; and the protection of the fragile ecology of the Island's ponds, marshes, and other surface water bodies. Specific actions recommended and their respective impacts are discussed. (Region I.) (ELR Order No. 71061.)

Old Colony 208 Area, "Towards Clean Water," several counties in Massachusetts, September 2: This EIS is a product of the cooperative efforts of the Old Colony Planning Council and the U.S. EPA, Region I, as part of a 2-year area-wide water quality management planning process for the Old Colony 208 Area. It summarizes the alternative technical control and management alternatives developed towards a composite areawide plan. The Old Colony 208 Area includes about 172 square miles, located just south of the Boston SMSA. It contains the communities of Abington, Avon, Bridgewater, Brockton, East Bridgewater, Easton, Hanson, Pembroke, West Bridgewater, and Whitman. "Towards Clean Air: Alternatives for Action," Vol. 2 will be prepared following input from Vol. 1. (Region I.) (ELR Order No. 71088.)

#### Final

New Milford Wastewater Collection & Treatment, Connecticut, August 29: This statement proposes the development of a regional wastewater treatment and collection system to serve the towns of New Milford and Brookfield, Conn. Included is the expansion in three phases of an already existing system which currently serves only the downtown area of New Milford. The treatment facility will be located in New Milford, on the west bank of the Housatonic River. Limited adverse effects are anticipated. (Region I.) Comments made by: DOC, DOI, AHP, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 71060.)

Tunnel Component, Lower Des Plaines TARP Cook County, Ill., August 31: This statement relates to the tunnel component of the Tunnel and Reservoir Plan, Lower Des Plaines Tunnel System, proposed by the Metropolitan Sanitary District of Greater Chicago. The proposed action identified and defined for this EIS is the Phase I conveyance tunnel systems and their associated subsystems only. The following information is included in the statement: Alternative plans, plan selector, TARP Tunnel Systems, TARP Subsystems, Des Plaines Tunnel Segments and Branches, cost of Tunnel System and Subsystems, and TARP financing. (Region 5.) Comments made by: DOI, USDA, DOC, State and local agencies, concerned groups and individuals. (ELR Order No. 71084.)

#### FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW, Washington, D.C. 20461, 202-566-9760.

#### Final

Petroleum Feedstocks to Synthetic Nat. Gas Plants, August 29: Proposed is the modification of FEA's current program of case-by-case review of applications for the allocation of naphtha and natural gas liquids (NGL) for use in the manufacture of synthetic natural gas (SNG). This programmatic EIS presents the impacts in 1980 and 1985 of (1) continuation of the current program (Review of each petition), and (2) modification of that program through 1 of 5 options ranging from the adoption of a more restrictive policy toward the use of naphtha and NGL for SNG manufacture, to complete removal of control on these products. Comments made by: EPA, HEW, DOI, ERDA, DOD, DOC, and concerned groups. (ELR Order No. 71055.)

#### DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

#### Draft

Fox Trails Development, McHenry County, Ill., August 29: Proposed is the provision of FHA mortgage insurance for 1,644 housing units on 375 acres of land. The project is in the southwest edge of the Village of Cary in the southeast corner of McHenry County. Adverse effects include pollution from construction activities, disturbance of wildlife habitat, and overcrowding during Phase I in School District No. 26. (ELR Order No. 71063.)

Belle Terre Development, St. John the B. County, La., August 31: The proposed action is the securing of home mortgage insurance for a total of 1,600 housing units located between U.S. Highway 61 (Airlie Highway) and Interstate 10 in LaPlace, St. John the Baptist Parish, La., approximately 15 miles west of New Orleans. The units are to be built over the next seven years; they will utilize a 900-acre site, and will consist of single family residences and an 18-hole golf course with club house, swimming pools, and tennis courts. Increased population of the area will have a long-term adverse impact on air quality and will increase noise and traffic levels. (ELR Order No. 71079.)

#### Final

Bellehaven/Vista Grande Terrace/Clear View Estates, El Paso County, Colo., August 31: Proposed is the issuance of HUD/FHA mortgage insurance for the developers of Bellehaven, Vista Grand Terrace, and Clear View estates to build 205 single family detached units, 24 single family detached units, and 380 single family detached units, respectively. The former two developments are located in Colorado Springs and the latter in El Paso County. Adverse impacts include increased levels of air pollution, greater pressure on local facilities, and destruction of wildlife habitat. Comments made by: COE, DOI, AHP, FEA, USDA, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 71073.)

Eastwood Village Disposition, Hamilton County, Ohio, August 31: Proposed is the disposition of Secretary owned property of Eastwood Village as prescribed by the Department of HUD regulations. Eastwood Village consists of two sections of property, each having a separate deed. Section One contains 540 units on 39.3 acres and section two contains 370 units on 46.9 acres. The primary impact as a result of the disposition of Eastwood Village is the demolition of 910 housing units and the subsequent redevelopment of the land for different uses. Comments made by: DOT, COE, DOI, AHP, EPA, state

agencies, interest groups. (ELR order No. 71076.)

Summerfields Community, Tarrant County, Tex., August 31: Proposed is the approval for home mortgage purposes of the application of the Cambridge Realty Development Corp. for the 1,561-acre Summerfields Development nine miles north of Fort Worth. Of the 6024 units in the project, 3,132 are low-density single family homes, 1,484 units are medium density apartments, and another 1,428 units are cluster housing and other types of units. Adverse effects include higher air and noise pollution levels, urban runoff, loss of croplands and pastures, effects on aquatic life, the deterioration of inner-city Fort Worth, and the irreversible commitment of 1,468 acres of land to man-made structures. Comments made by: EPA, USDA, AHP, DOI, DOT, DOC, COE, VA, State and local agencies. (ELR Order No. 71077.)

CandleRidge—So. Ridge Communities, Tarrant County, Tex., August 31: Proposed is the approval of an application by CandleRidge Development Corp. and the Foeter Financial Co. for PHA mortgage insurance for the proposed communities of CandleRidge and South Ridge. The 1,684-acre project is located 8 miles southwest of the Fort Worth Central Business District and is designed to accommodate a 1985 population of 15,500 persons with a housing supply of 5,664 units. Of these units, 2,796 are low-density single family homes, 1,164 units are medium-density apartments, and another 1,704 units are cluster housing, condominiums, townhomes and duplexes. Adverse effects include loss of prairie lands, and degradation of water. Comments made by: EPA, AHP, COE, VA, DOC, DOI, State and local agencies, interest groups. (ELR Order No. 71078.)

#### Section 104(h)

The following are Community Development Block Grant statement 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.)

#### Draft

Carbondale, Ill.—Drainways/Greenways Demo Project, Jackson County, Ill., September 2: Proposed is the Drainways/Greenways demonstration project in Carbondale, Ill. The project represents the initial effort in implementing the city-wide Drainways/Greenways system. This system proposes a functional multiple-use open space system providing multiple benefits including drainage, recreation, and transportation. The project is located entirely within census tract 1501.02. Adverse effects include disruption of natural vegetation and wildlife, increased runoff, and erosion during construction. (ELR Order No. 71089.)

Tooele, Utah.—City W. Sewer Trunk Line, Tooele County, Utah, August 29: Proposed is the construction of a sewer mainline and collection lines on the west side of the city of Tooele, Utah, to connect approximately 250 homes to the sewage treatment plant. These homes are currently using sewer septic tank and drain field systems which are threatening the city water wells located in the same area. The primary impacts in the area will be the result of projected growth. Land use changes will take place as agricultural and unused lands are utilized for development projects. (ELR Order No. 71066.)

#### DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202-343-3891).

## BUREAU OF LAND MANAGEMENT

## Final

1977 OCS Oil and Gas Lease Sale, North Atlantic States, August 29: Proposed is the leasing of 178 tracts (410, 112 hectares) of OCS land offshore of southeastern New England. The tracts range in distance to shore from 47 to 167 miles and are situated in water depths from 36 to 210 meters. The major resultant adverse impact is the possibility of accidental or chronic oil spillage, which would seriously endanger the environment. In addition, 33 tracts present a particular risk to commercial fishing, pelagic birds or a combination of these resources. If implemented, this sale is tentatively scheduled to be held in fall of 1977. Comments made by: EPA, DOC, DOI, AHP, STAT, FPC, NRC, COE, State and local agencies, concerned groups and individuals. (ELR Order No. 71056.)

Alunite Mine and Processing Plant, Beaver County, Utah, August 31: Proposed is the development of an alunite mine and processing plant complex for the annual production of 370,000 tons of potassium sulfate fertilizer up to 1.7 million tons of phosphate fertilizer, and up to 20,000 tons of aluminum fluoride. Major components of the project would include: an open pit mine and waste rock pile, and a processing plant complex including a 75-MW power plant, tailings ponds, and necessary support facilities. Adverse impacts include increased air pollution and alteration of wildlife systems on 2,400 acres. Comments made by: DOI, USDA, EPA, HEW, DOC, DOT, FEA, HUD, and local agencies. (ELR Order No. 71072.)

## BONNEVILLE POWER ADMINISTRATION

## Final

Bonneville Power Administration Electrical Service to Addy, Stevens County, Wash., August 29: 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. Comments made by: FPC, AHP, USDA, HEW, HUD, DOI, ERDA, EPA, State and local agencies, concerned groups and individuals. (ELR Order No. 71058.)

## NATIONAL PARK SERVICE

## Draft

Glen Canyon National Recreation Area, Management, Arizona and Utah, August 30: Proposed is a General Management Plan and Preliminary Wilderness Proposal for the Glen Canyon National Recreation Area, Arizona and Utah. The general management plan consists of a management zoning proposal dividing the recreation area into four management zones: Natural (50 percent), Recreation and Resource Utilization (48 percent), Cultural (less than 0.1 percent), and Development (almost 2 percent). The preliminary Wilderness proposal calls for adding 519,000 acres (42 percent of the recreation area) to the National Wilderness System; an additional 68,030 acres (5 percent of the recreation area) are proposed for potential wilderness additions. (ELR Order No. 71068.)

## INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Avenue, NW., Washington, D.C. 20423 (202-275-7692).

## Draft

Maine Central RR Acquisition, Amoskeag and Dumaines, August 31: This revised draft updates a draft EIS filed with CEQ in November 1976, and relates to a formal complaint filed with the ICC by the Maine Central Railroad alleging that Amoskeag Company and its parent organization, Dumaines, which control the Bangor and Aroostook Railroad Company, are unlawfully in control of the Maine Central in violation of Section 5(4) of the Interstate Commerce Act. This statement includes a detailed Environmental Impact Report from Amoskeag et al., which was not included in the original draft, and considers the DEIR and comments received in response to the 1976 draft EIS. (ELR Order No. 71082.)

Louisville and Nashville RR Co., Grand Trunk Western RR, Illinois and Indiana, August 31: Proposed is the acquisition by Louisville and Nashville Railroad Company (L&N) of truckage rights over a portion of the Grand Trunk Western Railroad Company's (GTW) main-line extending approximately 5.6 miles between Munster, Lake County, Indiana, and Thornton Junction, Cook County, Illinois. Included in this action is a proposal by L&N to construct a 1,294 foot connecting track between the GTW and L&N lines at Munster, Indiana. The proposed action would allow the applicant's planned elimination of its South Hammond, Indiana marshalling yard and consolidation of activities at Yard Center, Illinois. (ELR Order No. 71081.)

## Final

Radioactive Materials, Special Trains Service, August 31: This statement proposes the nationwide use of special trains for the transportation of radioactive materials. These special trains differ from regular trains in the following ways: (1) They carry only the designated radioactive commodity; (2) they consist of an engine, caboose, and a flat car with 100 ton casks containing the radioactive material; (3) train speeds are limited to 35 miles per hour; and (4) when passing another train, either the special train or the regular train must come to a complete stop. This EIS is generic in nature, and can be used by the Commission in any proceeding in which the issue is the health/safety effects associated with special train service. Comments made by: ERDA, DOI, HEW, DOC, TVA, EPA, NRC, and concerned groups. (ELR Order No. 71074.)

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

## Final

Whiteman Airport, Los Angeles, Los Angeles County, Calif., August 30: The statement concerns the improvement of Whiteman Airport, Los Angeles, California. Included is the proposed construction of a new lighted runway and extension of an existing runway, 2 warm-up pads, an aircraft apron, an extension of the taxiway, temporary runways and roads for use during construction, and other related work. Adverse impacts include increased air pollution and aircraft noise. A 4(f) determination will be necessary in regard to Roger Jessup Recreational Park. Comments made by: DOT, EPA, DOI, HEW, USDA, DOC, State and local agencies, concerned groups and individuals. (ELR Order No. 71071.)

## FEDERAL HIGHWAY ADMINISTRATION

## Draft

F.M. 1604 and I-10, I-10 to Babcock Road, Bexar County, Tex., August 31: Proposed is the improvement of F.M. 1604 in the vicinity

of the University of Texas at San Antonio by stage construction to a freeway between I.H. 10 in northwest San Antonio and Babcock Road about 2 miles to the west. Interstate Highway 10 would have its frontage roads changed to one way facilities with ramp adjustments and relocations to meet the demands of the new traffic generator, the University. A three level cloverleaf interchange would be built in stages between F.M. 1604 and I.H. 10. Adverse effects include the potential threat to pollution of the Edwards Aquifer Recharge Zone. (Region 6.) (ELR Order No. 71075.)

Evanston Streets Improvement, Unita County, Wyo., September 2: Proposed are improvements to highways within the city of Evanston, Wyoming. The improvements consist of replacing an existing railroad, underpass, building new bridges over the Bear River, widening U.S. Highway 30 and Wyoming Highway 150 through Evanston, and relocating a portion of Wyoming Highway 89 in Evanston. Adverse impacts include removal of several houses, businesses and municipal buildings, the relocation of families, and increased noise, water, and air pollution during construction. (Region 8.) (ELR Order No. 71087.)

## Final

U.S. 27 and KY-151, Southern RR Bridge to Alton, Anderson and Franklin Counties, Ky., August 30: Proposed is a replacement for the existing road from the Southern Railroad Bridge, northwest of Lawrenceburg, to U.S. 127, east of Alton, Kentucky. The 2-lane (ultimately 4-lane) roadway will extend from the bridge to I-64 at the KY-151 interchange, a distance of 6.9 miles, and then to U.S. 127 one mile from Alton, a distance of 1.75 miles. A grade separated interchange at the route junction and a 40 foot depressed grass median are included in the project. Negative impacts include removal of one business, eight residences, and four farm buildings, and obtaining of sixty-six right-of-way parcels. (Region 4.) Comments made by: HEW, EPA, DOI, USDA, FPC, and State agencies. (ELR Order No. 71069.)

## URBAN MASS TRANSPORTATION ADMINISTRATION

## Final

Red Line Extension, Harvard Square-Arlington Heights, Massachusetts, August 30: Proposed is a 6.5 mile extension of the Red Line rapid transit from its present terminus at Harvard Square to Arlington Heights, Massachusetts. The Harvard Station will be rebuilt on new location and 5 other stations will be constructed on various locations. Approximately 1.5 miles will be in a tunnel/deep hold and approximately 5 miles will be in a tunnel/cut-and-cover. Adverse impacts include disturbance of 3 acres of wetland vegetation, and degradation of air. A 4(f) statement is being prepared for the 3.5 acres of publicly owned park lands to be affected. (743 pages.) Comments made by: EPA, DOT, OD 2, State and local agencies, concerned groups and individuals. (ELR Order No. 71067.)

NICHOLAS C. YOST,  
Acting General Counsel.

[FR Doc. 77-26415 Filed 9-8-77; 8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 787-8; PP 6G1850/T123]

## ETHYL 3-METHYL-4-(METHYLTHIO) PHENYL (1-METHYLETHYL) PHOSPHORAMIDATE

## Establishment of a Temporary Tolerance

The Pineapple Growers' Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, Hawaii 96813, has submit-

ted a pesticide petition (PP 6G1850) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for combined residues of the nematocidal ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity pineapples at 0.2 part per million (ppm). (A related document establishing a feed additive tolerance for residues of the subject pesticide in dried pineapple bran at 10 ppm appears elsewhere in today's FEDERAL REGISTER.)

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with two experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerance will protect the public health. The toxicological data considered in support of the proposed tolerance were 90-day dog and rat-feeding studies, a two-year dog-feeding study, a rabbit teratology study, and a hen neurotoxicity study. The metabolism of the subject pesticide in plants and animals has been adequately described, and an adequate analytical method (gas chromatography with thermionic detection) is available for enforcement purposes. There is no reasonable expectation of residues from the proposed use in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The available data and information is sufficient to support the proposed tolerance. The following data must be supplied prior to the establishment of a permanent tolerance or any expanded use: The manufacturing process for the pesticide, the toxicological significance of residues of phenolic hydrolysis products, the composition of one inert ingredient, correct nomenclature for the sulfoxide and sulfone metabolites of the pesticide, and additional residue data reflecting the proposed use in Hawaii. Also a mutagenicity study may be required.

Permanent tolerances have previously been established (40 CFR 180.349) for residues of the pesticide on peanut hulls at 0.4 ppm; bananas, brussels sprouts, and cabbage at 0.1 ppm; cottonseed and soybeans at 0.05 ppm; and peanuts at 0.02 ppm. The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. The Pineapple Growers' Association of Hawaii must immediately notify the EPA of any findings from the experi-

mental use that have a bearing on safety. The firm must also keep records of distribution and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires August 31, 1980. Residues not in excess of 0.2 ppm remaining in or on pineapples after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerance. This temporary tolerance may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 (202-755-4851).

(Sec. 408(j) Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: August 26, 1977.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 77-26260 Filed 9-8-77; 8:45]

[FRL 788-1]

#### SCIENCE ADVISORY BOARD

##### Open Meeting

The Executive Committee of the Science Advisory Board of EPA has authorized the establishment of an ad hoc study group (hereafter called the Study Group) to examine health and environmental problems that may be associated with polymeric materials used for encapsulating agricultural chemicals used on food crops. The Study Group is concerned with the encapsulating materials in general, and not with associated agricultural chemicals as capsule contents.

The Study Group will hold an open meeting on September 26-27, 1977, in the Conference Room of the Faculty Club of the University of California at Davis, beginning each day at 9:30 a.m. P.D.T. This meeting will address questions of health and environmental problems of the capsules as residuals on food crops after the chemical contents have been released. This is an informal meeting and not a "hearing." The Study Group does not "take testimony." Persons or groups desiring to attend the meeting or submit information to the Study Group must contact the Study Group Officer, Dr. Joel L. Fisher at 703-557-7710 by September 20, 1977. Submissions of materials should be substantive and scientifically supported, but bulky reference materials should be avoided to minimize distribution problems.

Neither the Study Group nor the Science Advisory Board will pass judgment on any specific commercial preparations

or products with respect to any EPA regulatory actions involved in registration or deregistration.

LLOYD T. TAYLOR,  
Acting Staff Director,  
Science Advisory Board.

SEPTEMBER 2, 1977.

[FR Doc. 77-26196 Filed 9-8-77; 8:45 am]

[FR 2747-6]

#### TOXIC SUBSTANCES CONTROL ACT

##### Notification of Substantial Risk Under Section 8(e)

AGENCY: Environmental Protection Agency.

ACTION: Proposed guidance.

SUMMARY: On March 11, 1977 a "Notice of Intent to Develop Regulations and Guidance Regarding Records, Health and Safety Studies, and Notices of Substantial Risk" was published in the FEDERAL REGISTER. In this action, guidance is proposed on submission of notices of substantial risk to the Administrator under section 8(e) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2029, 15 U.S.C. 2607). The provisions of that section went into effect on January 1, 1977.

Section 8(e) states that "Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information."

DATES: Interested persons are invited to submit written comments regarding this proposed guidance by October 15, 1977.

ADDRESS: Written views and comments should bear the document control number OTS-080004 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460. Attention: Vickie Briggs. All written comments filed pursuant to this notice will be available for public inspection in the Office of Toxic Substances, from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Edward M. Brooks (Project Leader)  
at the above address or by telephone  
202-755-8043.

SUPPLEMENTARY INFORMATION: On February 1, 1977, comments on section 8(e) were solicited from an informed group of industry representatives, environmentalists and other interested parties. Their comments, as well as other comments received, are discussed below.

**WHO IS SUBJECT TO THE REQUIREMENTS?**

Several commenters suggested that the reporting requirements be applied only to establishments that manufacture, process, or distribute in commerce chemical substances or mixtures, and not to the employees of such establishments. These commenters argued that such establishments, by considering the variety of information at their disposal, could screen out inconsequential information and submit pertinent data in an orderly manner. They also noted that this would conform with corporate practice of regarding employees as agents of the establishment.

However, problems arise under this approach relating to the timing and extent of an establishment's discovery and evaluation procedures that would precede a finding on its part of "substantial risk." Also, all employees capable of recognizing substantial risks should have the responsibility to be alert to such information. Since the purpose of section 8(e) is to immediately acquaint the Administrator with information on substantial risks, the reporting requirements are construed to apply to all relevant establishments and to those employees of such establishments capable of appreciating pertinent information. Section 23 of TSCA prohibits any employer from discharging or otherwise discriminating against any employee because the employee has complied with section 8(e) requirements.

The Administrator does not intend to require burdensome, duplicative reporting, however, nor does he seek to interfere in internal company reporting practices. Therefore an employee need not report information that is reported by a formally designated company official within the specified time. It is assumed that companies will establish internal procedures whereby evidence of substantial risk is promptly transmitted by employees to a designated official who in turn forwards it to EPA, together with all relevant information, including internal company memoranda, and notifies all employees who have knowledge of the information of its transmittal to EPA.

Agency enforcement activities (see Part IX of this guidance) will be focused primarily on:

(a) Employees reasonably capable of appreciating pertinent information who fail to submit or delay submitting such information to supervisors for corporate processing.

(b) Supervisors who fail to process substantial-risk information for submission to the Administrator in a timely manner, and

(c) Establishments and their chief executive officers that fail to process and notify the Administrator of substantial-risk information in a timely manner (see Part IV of this guidance).

**WHEN WILL A PERSON BE REGARDED AS HAVING "OBTAINED" INFORMATION?**

Two commenters suggested that a person should not be considered to have

obtained information until he has determined that such information should be reported. The Administrator disagrees. A person is deemed to have obtained such information as soon as he (or, in the case of an establishment, as soon as any officer or employee capable of appreciating the information) is aware that such information may suggest substantial risk—not after analyses or evaluations have been conducted to confirm or reject that risk. The schedule described in Part IV of this document allows ample time for such person to determine whether or not the information must be reported. In the event that effects as described in Part V occur in a work area where several chemicals are being manufactured, processed, or distributed in commerce, one report shall be submitted listing each of the chemicals.

Since establishments are regarded as having simultaneously obtained any risk information that their officers or employees have obtained, it is incumbent upon them to process such information promptly, in order to comply with the schedule set forth in Part IV.

**HOW CAN THE ADMINISTRATOR BE BOTH "IMMEDIATELY" AND COMPREHENSIVELY INFORMED?**

One commenter suggested a two-phase notification procedure, whereby the Administrator would be immediately alerted of a potential substantial risk, with delayed submission of a complete report. The option of a two-phase notification is provided if necessitated by the bulk of material or by lack of immediate access to all pertinent information—not to allow analyses and evaluations to confirm or reject the risk.

**WHAT INFORMATION REASONABLY SUPPORTS A CONCLUSION OF SUBSTANTIAL RISK?**

One commenter suggested that qualified experts determine, case-by-case, whether information "reasonably supports the conclusion (of) substantial risk of injury to health or the environment," and one further suggested that explicit and reasonable criteria would evolve through such a process. While more definitive criteria for "substantial risk" may evolve, the Administrator believes that the health and environmental effects outlined in Part V provide a basis for reporting at this time. In any event, the delay involved with convening "qualified experts" to review each risk report prior to submission is not warranted.

One commenter suggested that section 8(e) is intended to "red-flag" critically important information. The criteria set forth in Part V focus on the level of risk appropriately addressed by section 8(e). Section 8(e) is construed to cover information regarding (a) toxic effects, as outlined in Part V of this guidance, ascribed to a chemical substance or mixture, and (b) incidents of extraordinary exposure to a chemical substance or mixture whose adverse effects have already been established or are strongly suspected, which critically imperil hu-

man health or the environment, as described in Part V of this guidance.

**WHAT INFORMATION NEED NOT BE REPORTED?**

Several commenters suggested that information that has been submitted to EPA in response to other mandatory reporting requirements of TSCA or other authorities administered by EPA be exempted from section 8(e) requirements. Such information is exempted, subject to the conditions outlined in Part VI of this guidance. These conditions will ensure that information on substantial risks is surfaced for immediate attention. In addition, information contained in notifications of spills under section 311(b)(5) of the Federal Water Pollution Control Act is exempted.

Several commenters suggested that information submitted to other regulatory agencies be exempted from section 8(e) reporting requirements, focusing concern on information submitted to the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the Consumer Product Safety Commission and the Food and Drug Administration. The Agency intends within 12 months after issuance of this guidance to establish interagency arrangements for the timely exchange of such information and amend this guidance to eliminate the possibility of duplicative reporting. In the interim, however, reports to other agencies do not substitute for reports to EPA under section 8(e).

In conformance with a number of comments, information published in English language, scientific literature widely available in the United States is also exempted, since EPA would otherwise be continuously burdened with receiving and processing myriad, highly duplicative literature references. Several comments were received relating to information generated by the Agency, in consideration of which the proposed guidance exempts from section 8(e) requirements information published by EPA in reports. Information corroborative of well-established adverse effects already documented in the published, English language, scientific literature is also exempted (unless such information concerns emergency incidents of environmental contamination).

**DOES TSCA SECTION 8(e) APPLY TO INFORMATION FIRST RECEIVED BY A PERSON PRIOR TO THE EFFECTIVE DATE OF TSCA?**

Commenters have argued that because section 8(e) requires the reporting of information by "Any person . . . who obtains information . . ." the section should be construed to apply only to information first received on or after January 1, 1977. The Administrator considers this an overly narrow and restrictive interpretation. The purpose of the section 8(e) requirement is to bring to the Administrator's immediate attention information dealing with substantial risks posed by substances or mixtures, so that appropriate action may be taken. This purpose would not be served

if such information went unreported simply because it was possessed by or known to a person before January 1, 1977. Accordingly the section 8(e) reporting requirement applies to risk information possessed by or known to a person before, on, or after January 1, 1977.

Several commenters stated that EPA should not use section 8(e) to require an immediate, exhaustive search of all health and environmental information in the historical files and archives of persons subject to section 8(e). This proposed guidance would require persons to report only that risk information of which they are aware after January 1, 1977, regardless of when they first obtain it. Thus, if a person obtained risk information prior to January 1, 1977 (but has not been aware of it since that date, that person would not be required to report. By limiting the scope of section 8(e) to risk information of which a person has been aware during 1977, EPA intends to limit the need for searchers of historical records and files.

In developing this guidance, EPA considered other approaches to risk information obtained prior to 1977. At this time EPA has not yet adopted an approach which establishes requirements for searching and reviewing information obtained before 1977. The emphasis in this proposed guidance upon a person's current awareness of such information appears to be consistent with the Congress' intent in including section 8(e) in TSCA. However, EPA solicits comments upon the best means for acquiring risk information obtained before 1977.

In this regard, it should be noted that section 8(d) will be used by EPA to selectively acquire information first obtained prior to 1977. That section requires EPA to issue rules under which persons must provide to EPA lists of health and safety studies conducted "at any time," as well as the studies themselves. The term "health and safety study" is defined broadly in section 3(6) of the Act to include "any study of any effect of a chemical substance or mixture on health or the environment." Furthermore, the Conference Report on TSCA states that the term "health and safety study" encompasses not only "formal, disciplined" studies, but also "[a]ny data which bears on the effects of a chemical substance on health or the environment \* \* \* (H.R. Rep. No. 94-1679, 94th Cong., 2d Sess. 58 (1976).) In the future EPA will propose rules under section 8(d) which will cover specific health and safety studies conducted before January 1, 1977.

#### PROPOSED GUIDANCE

Accordingly, the Administrator's proposed policy regarding TSCA section 8(e) is set forth below.

#### I. DEFINITIONS

For purposes of this guidance:

The term "chemical substance" means any organic or inorganic substance of a particular molecular identity, including (1) any combination of such substances

occurring in whole or in part as a result of a chemical reaction or occurring in nature, and (2) any element or uncombined radical. The term "chemical substance" does not include: (i) any mixture; (ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide; (iii) tobacco or any tobacco product; (iv) any source material, special nuclear material, or by-product material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act); (v) any article the sale of which is subject to the tax imposed by Section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by Section 4182 or 4221 or any other provision of such Code); and (vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in Section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device. The term "food" includes poultry and poultry products (as defined in Sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in Section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in Section 4 of the Egg Products Inspection Act).

The term "commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State; or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

The term "manufacture" means to import into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture.

The term "manufacture or process for commercial purposes" means to manufacture or process (1) for distribution in commerce; (2) for use as a catalyst or an intermediate; (3) for use by the manufacturer; or (4) for test marketing purposes.

The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reac-

tion; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

The term "person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

The term "process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture; or (2) as part of an article containing the chemical substance or mixture.

#### II. PERSONS SUBJECT TO THE REQUIREMENT

Persons subject to Section 8(e) requirements include both natural persons and juridical persons engaged in the manufacturing, processing, or distribution in commerce of a chemical substance or mixture. In the case of corporations or other business organizations, all officers and employees of the organization are subject to the notification requirement to the extent that they are capable of appreciating pertinent information.

#### III. WHEN A PERSON WILL BE REGARDED AS HAVING OBTAINED INFORMATION

A person obtains information at the time: (a) the person first comes into possession of information reasonably supporting the conclusion that the chemical substance or mixture presents a substantial risk; or (b) the person knows or should know of the existence of such information not in his possession but which would be delivered to him on request.

A person has obtained information as described in (a) or (b) above as soon as he is aware that such information may suggest substantial risk—not after analyses or evaluations have been conducted to confirm or reject that risk. An establishment obtains information at the time any of its officers or employees obtains information.

#### IV. REQUIREMENT THAT A PERSON "IMMEDIATELY INFORM" THE ADMINISTRATOR

With the exception of information on emergency incidents of environmental contamination (see Part V(d) of this guidance) a person has "immediately informed" the Administrator if the information is received by EPA not later than the fifteenth calendar day after the date the person obtained such information. Information currently in the possession of a person who is subject to reporting

must all be reported by November 15, 1977. For emergency incidents of environmental contamination, a person shall, as soon as he has knowledge of the incident, immediately by telephone report the incident to the Administrator (see Part VIII for appropriate telephone contacts), with the report containing as much of the information required by Part VIII of this guidance as possible. A written report in accordance with Part VIII (a) through (f) is to be submitted within 15 days.

In some cases, submission of all available information may not be possible within 15 days; for example, if a large amount of information is being compiled, or if the person lacks immediate access to all information known or suspected to be pertinent. In such cases an initial notice is to be submitted within 15 days, identifying the chemical substance or mixture and describing the nature and magnitude of the potential substantial risk, the need for delay, and a schedule for submitting the completed information. This schedule is to be followed unless the Agency notifies the sender otherwise within five working days following receipt of the notice. Under no circumstances may the time, from the date on which the person first obtained information to submission of all available information, exceed 30 days. Such an extension of the reporting period does not apply to information currently in the possession of persons subject to the reporting requirement.

#### V. INFORMATION WHICH REASONABLY SUPPORTS A CONCLUSION OF SUBSTANTIAL RISK

Any risk should be examined to determine if reporting is required. Economic or social benefits of use, or costs of restricting use, are not to be considered in determining whether a risk is "substantial."

Information which ascribes relatively serious risk to a chemical substance or mixture, including but not limited to any of the following health and environmental effects, should be reported.

##### a. Human Health Effects

Human health effects need not be conclusively demonstrated to be caused by the chemical substance or mixture as long as evidence links the chemical substance or mixture to the effects.

(1) Any instance of cancer, gene mutations, or birth defects. Any instance of toxicity that results in death, or serious or prolonged incapacitation (other than due to gross misuse).

(2) Any pattern of effects or evidence which reasonably supports the conclusion that the chemical substance or mixture produces cancer, gene mutations, birth defects or toxic effects resulting in death, or serious or prolonged incapacitation. Consideration should be given to the extent and seriousness of the ailment, and/or whether or not the immediate manifestation may be a precursor of a more serious affliction. Impaired health requiring reporting may include

such effects as dermal ailments or nausea if they meet the above criteria.

##### b. Scientific Studies

Any evidence acquired as a result of epidemiological studies, bioassay tests, in vivo or in vitro experiments or any other formal studies that (1) reasonably supports the conclusion that the chemical substance or mixture presents a substantial risk of injury to human health (as outlined above), considering both toxicity and levels and extent of exposure; or (2) reasonably supports the conclusion that the chemical substance or mixture presents a substantial risk of significant ecological damage (as outlined below).

Such evidence is not to be withheld until completion of the studies but should be reported to the Administrator as soon as it reasonably supports the conclusion of substantial risk.

##### c. Environmental Effects

Environmental effects need not be conclusively demonstrated to be caused by the chemical substance or mixture as long as evidence links the chemical substance or mixture to the effects.

1. Extreme persistence of a chemical substance not naturally occurring or occurring in greater than natural concentrations as a result of commerce.

2. Pronounced bioaccumulation, including bioaccumulation in fish beyond 50,000 times water concentration in a 30-day exposure or having a n-octanol/water partition coefficient greater than 10,000.

3. Interference with critical biogeochemical cycles, such as the nitrogen cycle. Chemical substances which are known to be toxic to key organisms in the cycles (for example, nitrifying bacteria) would present a substantial risk.

4. Excessive stimulation of primary producers (algae, macrophytes) in aquatic ecosystems, e.g., resulting in nutrient enrichment, or eutrophication, of aquatic ecosystems.

5. Any ecologically significant effects on non-human organisms due to acute or chronic toxicity such as cancer, mutation, birth-defects, or serious or prolonged incapacitation.

6. Facile transformation or degradation to a chemical having an unacceptable risk as defined above.

##### d. Emergency Incidents of Environmental Contamination

Any environmental contamination by a chemical substance or mixture to which has been ascribed any of the above adverse effects which, because of the pattern, extent and amount of contamination, critically imperils a human population or critically threatens non-human organisms with large-scale and ecologically significant population destruction.

#### VI. INFORMATION WHICH NEED NOT BE REPORTED

Information need not be reported if such information: (a) has been published by EPA in reports; (b) has been submitted in writing to EPA within the time constraints set forth in Part IV of this

guidance, pursuant to this guidance, or pursuant to mandatory reporting requirements under TSCA or any other authority administered by EPA (including the Federal Insecticide, Fungicide and Rodenticide Act, the Clean Air Act, the Federal Water Pollution Control Act, the Marine Protection, Research, and Sanctuaries Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act), provided that the information encompasses that required by Part VIII of this guidance, including, from now on, Part VIII(b); (c) has been published in the English language, scientific literature widely available in the United States; (d) is corroborative of well-established adverse effects already documented in the published, English language, scientific literature, unless such information concerns emergency incidents of environmental contamination as described in Part V of this guidance, or (e) is contained in notification of spills under Section 311(b)(5) of the Federal Water Pollution Control Act.

#### VII. INFORMATION FIRST RECEIVED BY A PERSON PRIOR TO THE EFFECTIVE DATE OF TSCA

Any information obtained by a person prior to January 1, 1977, of which the person is aware after January 1, 1977, shall be reported by November 15, 1977, if the information is otherwise subject to the requirements of Section 8(e).

#### VIII. REPORTING REQUIREMENTS

Notices shall be delivered to the Director of the Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

A notice should: (a) be sent by certified mail, or in any other way permitting verification of its receipt by the Agency; (b) state that it is being submitted in accordance with Section 8(e); (c) contain the job title, name, address, telephone number and signature of the person reporting and the name and address of the manufacturing, processing or distributing establishment with which he is associated; (d) identify the chemical substance or mixture; (e) summarize the adverse effects being reported, describing the nature and the extent of the risk involved; and (f) contain the specific source of the information together with a summary and the source of any available supporting technical data.

If all available information cannot be submitted within 15 days the initial notice shall be submitted in accordance with instructions (a) through (d) above, and, in addition: (1) describe the potential hazard insofar as possible; (2) explain the need for delay; and (3) propose a schedule, not to exceed an additional 15 days, for submitting the complete data.

For emergency incidents of environmental contamination (see Part V(d) of the Guidance), a person shall, as soon as he has knowledge of the incident, immediately by telephone report the incident to the Administrator (see below for ap-

appropriate telephone contacts), with the report containing as much of the information required by instructions (b) through (f) above as possible. A written report, in accordance with instructions (a) through (f) above, is to be submitted within 15 days.

Twenty-four hour emergency telephone numbers are:

- Region III, 215-597-9898 (PA, W. VA, VA, MD, NH).  
 Region II, 201-548-8730 (NY, NJ, Puerto Rico, Virgin Islands).  
 Region III, 215-597-9898 (PA, W. VA, VA, MD, DE, DC).  
 Region IV, 404-881-4062 (KY, TN, NC, SC, GA, AL, MS, FL).  
 Region V, 312-353-6188 (WI, IL, IN, MI, OH, MN).  
 Region VI, 214-749-3840 (N. MX, TX, OK, AR, LA).  
 Region VII, 816-374-3778 (NE, IA, MO, KS).  
 Region VIII, 303-837-3880 (CO, UT, WY, MT, ND, SD).  
 Region IX, 415-556-6254 (CA, NV, AZ, HI).  
 Region X, 206-442-1200 (WA, OR, ID, AK).

#### IX. FAILURE TO REPORT INFORMATION

Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under Section 8(e). Section 16 provides that a violation of Section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Pursuant to Section 17, the Government may seek judicial relief to compel submission of Section 8(e) information and to otherwise restrain any violation of Section 8(e).

#### APPENDIX

##### QUICK REFERENCE SUMMARY FOR EMERGENCY INCIDENTS OF ENVIRONMENTAL CONTAMINATION

A. *What Should be Reported as an "Emergency Incident"*: An emergency incident of environmental contamination is "any environmental contamination by a chemical substance or mixture . . . which, because of the pattern, extent and amount of contamination, critically imperils a human population or critically threatens non-human organisms with large scale and ecologically significant population destruction." (See Part V of the Guidance for complete description.)

B. *What Need Not be Reported as an Emergency Incident*: Information contained in notification of spills under Section 311(b) (5) of the Federal Water Pollution Control Act (FWPCA). (For a complete list of exemptions to reporting, see Part VI of the Guidance.)

C. *When and Where to Report Emergency Incidents*: Emergency incidents of environmental contamination are to be reported immediately by telephone to the appropriate EPA Regional 24-hour telephone emergency line listed below.

- Region I, 617-223-7265 (ME, RI, CT, VT, MA, NH).  
 Region II, 201-548-8730 (NY, NJ, Puerto Rico, Virgin Islands).  
 Region III, 215-597-9898 (PA, W. VA, VA, MD, DE, DC).  
 Region IV, 404-881-4062 (KY, TN, NC, SC, GA, AL, MS, FL).  
 Region V, 312-353-6188 (WI, IL, IN, MI, OH, MN).  
 Region VI, 214-749-3840 (N. MX, TX, OK, AR, LA).  
 Region VII, 816-374-3778 (NE, IA, MO, KS).  
 Region VIII, 303-837-3880 (CO, UT, WY, MT, ND, SD).

Region IX, 415-556-6254 (CA, NV, AZ, HI).  
 Region X, 206-442-1200 (WA, OR, ID, AK).

In addition, a written report, in accordance with instructions (a) through (f) of Part VIII of this Guidance, is to be submitted within 15 days to the Director, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460.

Dated: August 3, 1977.

DOUGLAS M. COSTLE,  
 Administrator.

[FR Doc. 77-26284 Filed 9-8-77; 8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

#### Negative Determination of Environmental Impact Re Iowa Electric Light and Power Company's Sutherland Generating Station, Powerplants 1, 2, and 3

Pursuant to 10 CFR 208.4, and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Iowa Electric Light and Power Company, Sutherland Generating Station, Powerplants 1, 2, and 3.

On June 30, 1975, the FEA issued prohibition orders to the above-listed powerplants which prohibited the powerplants from burning natural gas or petroleum products as their primary energy source. The prohibition orders provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 305, the orders would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d) (1) (B) of the Clean Air Act, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d) (1) (B) of the Clean Air Act is the earliest date that a particular power plant will be able to comply with all applicable air pollution requirements under section 119 of the Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplant the Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined that issuance of a Notice of Effectiveness for the prohibition orders to the above-listed powerplants is not a "major Federal action significantly affecting the quality of the human environment" within the mean-

ing of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c) FEA concludes that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the FEA National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the environmental impacts of the Notice of Effectiveness and the associated negative determination and environmental assessment to Executive Communications, Box PG, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination-Proposed NOE to Iowa Electric Light and Power Company's Sutherland Generating Station, Powerplants 1, 2, and 3." Fifteen copies should be submitted on or before September 29, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., on September 2, 1977.

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

[FR Doc. 77-26337 Filed 9-8-77; 8:45 am]

## FLYING DIAMOND OIL CO.

### Proposed Consent Order

#### I. INTRODUCTION

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order which was executed between Flying Diamond Oil Co. (Flying Diamond) and FEA on August 3, 1977. 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 and, if appropriate, attempt to negotiate an alternative Consent Order.

#### II. THE CONSENT ORDER

Flying Diamond is a publicly held corporation engaged in the production and sale of crude oil and is therefore subject to FEA regulations.

As a result of an audit conducted by FEA of Flying Diamond's pricing practices for the period January 1, 1974, through May 31, 1975, FEA advised Flying Diamond that Flying Diamond had apparently overcharged two purchasers of crude oil by charging prices in excess of those permitted under the Cost of Living Council price rule set forth in 6 CFR 150.354 and FEA's price rule set forth in 10 CFR 212.73. FEA contended that those overcharges resulted from Flying Diamond's improper computation of the base production control level for its properties from which crude oil was produced, with the consequence that "old" crude oil was sold as "new" and "released" crude oil.

In an effort to conclude this compliance proceeding and to resolve the issues raised by the audit results, FEA and Flying Diamond entered into a Consent Order, the significant terms of which are:

(1) Flying Diamond shall refund to its crude oil purchasers all amounts charged in excess of maximum lawful selling prices together with appropriate interest payments. FEA has computed the total overcharge (excluding interest) at \$740,062.63. Refunds shall be made to Husky Oil Corp. in the form of a cash payment and to Major Oil Corp. through a special interest-bearing escrow account to be controlled by FEA.

(2) All refunds and interest payments will be made within thirty days from the effective date of this Consent Order.

(3) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

### III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to: Dudley E. Faver, Regional Administrator, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226. Copies of this Consent Order may be received free of charge by written request at this same address or by calling 303-234-2420.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Flying Diamond Consent Order." All comments received by 4:30 MDT on the 30th calendar day following publication of this Notice in the FEDERAL REGISTER will be considered by 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., on this 2d day of September 1977.

ERIC J. FYGI,  
Acting General Counsel.

[FR Doc. 77-26198 Filed 9-8-77; 8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. ER77-570]

### CAROLINA POWER & LIGHT CO.

#### Filing of Revised Agreements

SEPTEMBER 2, 1977.

Take notice that Carolina Power & Light Co. (CP&L) on August 29, 1977, tendered for filing with the Federal Power Commission changes outlined below in its tariff filings with certain electric membership corporations and municipalities.

1. *Central EMC.*—For the Sanford Point of Delivery a correction to properly reflect the actual location of the point of delivery. For the Siler City Point of Delivery the existing 12 KV point of delivery is cancelled and a new point of delivery is established at 115 KV.

2. *Lumbee River EMC.*—Laurinburg 23 KV, Red Springs 23 KV, Rockfish 115 KV, and South Lumberton 23 KV—For these points of delivery the Agreement is amended to incorporate the supplying of metering pulse information by the Company to the Customer.

3. *Piedmont EMC.*—The Customer is extending, from the Roxboro Point of Delivery, a 115 KV line into its service area. The point of delivery is relocated approximately 100 feet and the metered voltage is changed to 115 KV.

4. *Pitt & Green EMC.*—The establishment of a new point of delivery at 115 KV, to be known as Hugo, near Structure No. 225 on the Company's Lee-New Bern 115 KV line. The initial load to be served at this point of delivery will be transferred from existing points of delivery.

5. *City of Lumberton.*—The initial filing of the Company with the Commission incorrectly stated the location of the point of delivery as being "Company pole one span from the Lumberton City 115/23 KV Substation;" whereas, the actual point of delivery is on the secondary bus of Company's Lumberton City 115/23 KV Substation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMS,  
Secretary.

[FR Doc. 77-26227 Filed 9-8-77; 8:45 am]

[Docket No. CP77-588]

### CITIES SERVICE GAS CO.

#### Application

(SEPTEMBER 2, 1977).

Take notice that on August 25, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP77-588 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a town border meter station on Applicant's Neodesha 8-inch transmission pipeline in Wilson County, Kans., for delivery of natural gas to the City of Neodesha for resale and distribution to consumers in and around the City of Neodesha, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is authorized to provide natural gas service to the City of Neodesha by the Commission's order issued October 6, 1958, in Docket No. G-14721 (20 FPC 460). Applicant further states that the City of Neodesha's distribution system is a low pressure system and is regulated only at existing delivery points and that pressures at the existing delivery points cannot be increased above present levels. It is indicated that the City of Neodesha has experienced difficulty in maintaining service in the northeastern section of the city during the past two winters and has requested that Applicant install an additional town border meter station to alleviate this problem.

The construction costs are estimated to be \$10,140, which will be reimbursed by the City of Neodesha, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 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 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 inter-

vene 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. 77-26228 Filed 9-8-77; 8:45 am]

[Docket No. CP77-590]

**FAIR ENVIRONMENTAL DEALS FOR UNITED PEOPLE v. NATIONAL FUEL GAS SUPPLY CORP. AND NATIONAL GAS STORAGE CORP.**

**Complaint**

SEPTEMBER 2, 1977.

Take notice that on August 5, 1977, Fair Environmental Deals for United People (Complainant), Basset Road R.D. 2, Andover, N.Y. 14806, filed in Docket No. CP77-590, a complaint pursuant to Section 1.6 of the Commission's Rules of Practice and Procedure (18 CFR 1.6) praying for expedited investigation, injunctive, declaratory, and other relief, inter alia, restraining National Fuel Gas Supply Corp. (NFG) and National Gas Storage Corp. (NG) from alleged violations of the Natural Gas Act and other laws in connection with NFG's and NG's storage projects in Allegany County, NY., all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

Complainant states that on August 10, 1975, NFG and NG jointly filed in Docket No. CP76-492 an application pursuant to Section 7(c) of the Natural Gas Act for authority to construct and operate substantial facilities for underground storage of interstate gas in the West Independence Pools and Beach Hill Pools, Allegany County, N.Y.

It is said that on December 2, 1976, December 10, 1976, February 16, 1977, April 4, 1977, and May 11, 1977, NFG and NG sought temporary certificates of public convenience and necessity for authority to begin construction on the proposed underground gas storage facilities at West Independence and that in each instance the requested temporary authority was denied by orders dated November 2, 1976, February 1, 1977, May 6, 1977, and June 10, 1977.

Complainant further states that on or about May 15, 1977, in violation of the above orders, the National Environmental Policy Act, and the Natural Gas Act (15 U.S.C. 717(f)(c)), NFG and NG did begin construction on the proposed Beech Hill Storage Project and prepared the Beech Hill Compressor Station site for construction.

Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that NFG and NG are or have been unlawfully constructing jurisdictional facilities on Beech Hill, Independence, and Willing Townships, Allegany County, State of New York, without having first secured the proper authorization from the Commission to do so, in violation of 15 U.S.C. 717f(c);

(2) Issue a Cease and Desist Order, ordering Defendants to cease and desist from continuing said violations of 15 U.S.C. 717f(c);

(3) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq. for an injunction restraining defendants from continuing said violations of 15 U.S.C. 717f(c);

(4) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendants said violations of 15 U.S.C. 717f(c) for his consideration regarding proceedings which should be instituted.

Secondly, Complainant alleges that on May 7, 1976, NFG filed in Docket No. CP76-364 an application for a temporary certificate authorizing emergency construction on 13 gas wells in the West Independence Field located in the Towns of Independence and Willing, Allegany County, N.Y., and that in its application NFG stated that " \* \* \* immediate steps are necessary to protect residents and gas company work crews from the possibility of blow outs." Complainant further indicates that NFG stated that the proposed construction would "also be directed towards ultimate development of this pool for storage purposes."

It is alleged that after May 7, 1976, and before June 11, 1977, an unknown agent of NFG requested that the Commission dismiss the application because the Commission lacked jurisdiction over its proposed activities because the activities were unrelated to development of the West Independence pool for storage of interstate gas and were part of its "normal maintenance program." Relying on the truth of this statement, the Secretary of the Commission sent a letter to John H. Comet, President of LFG dismissing the application in CP76-364 and finding that Commission authorization is not required for the construction proposed, it is said. It is indicated that on or after July 1, 1977, LFG began the proposed construction on 13 wells, constructed access roads, cleared well sites, and commenced drilling activities without conducting environmental studies or complying with environmental guidelines of the Commission or any other Federal or State agency in conducting said construction. Consequently, Complainant alleges that NFG's activities caused injury to its individual members and to local residents including environmental damage, invasion of privacy, nuisance, loss of timber, water and other natural resources, exposure to unsafe conditions and hazards, right to quiet enjoyment of property, etc.

Accordingly, Complainant requests that the Commission

(1) Investigate and Find, pursuant to 15 U.S.C. 717m, that defendants NFG knowingly and willfully communicated false information to the Commission for the purpose of evading Commission jurisdiction over proposed construction in Docket No. CP76-364 in violation of 18 U.S.C. 1001;

(2) Declare the Commission's letter dated June 11, 1976, to John A. Comet to have been erroneously issued, void ab initio, and of no effect;

(3) Issue a Cease and Desist Order ordering defendant NFG to cease and desist from all construction and other activity conducted pursuant to Commission's letter to John A. Comet dated June 11, 1976;

(4) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq., for an injunction restraining defendants from continuing construction and other activity conducted pursuant to Commission's letter to John A. Comet dated June 11, 1976;

(5) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendant's said violations of 18 U.S.C. 1001 for his consideration regarding proceedings which should be instituted.

Thirdly, Complainant alleges that NFG's enlarging and extending the storage capacity of the East Independence Pool beyond the 5,000,000 Mcf authorized by the Commission's order dated February 15, 1972, in Docket No. CP71-263 violated the certificate issued in said docket.

Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that defendants are or have been unlawfully constructing jurisdictional facilities on West Independence Pool, Independence Township, Allegany County, State of New York, without having first secured proper authorization from the Commission, in violation of 15 U.S.C. 717f(c).

(2) Issue a Cease and Desist Order, ordering defendants to cease and desist from continuing said violations of 15 U.S.C. 717f(c);

(3) Petition the United States District Court for the Western District of New York, pursuant to 15 U.S.C. 717s et seq. for an injunction restraining defendants from continuing said violations of 15 U.S.C. 717f(c);

(4) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a), evidence of defendants said violations of 15 U.S.C. 717f(c) for his consideration regarding proceedings which should be instituted.

Finally, Complainant indicated that prior to January 1, 1975, NFG's maps defining the boundary of the West Independence storage reservoir showed the property of Jack Mason to be within the reservoir and showed two storage wells proposed to be constructed on the Mason property. It is stated that New York State Environmental Conservation Law provides that an underground gas storage permit will not issue until the prospective

operator "has acquired by grant, lease or other agreement at least 75 percent of the storage rights in said reservoir \* \* \* According to NFG's then existing maps, NFG held or controlled less than 75 percent of the storage rights in said reservoir, it is said.

Complainant alleges that subsequent to January 1, 1975, NFG did fraudulently and with intent to deceive the State of New York and United States of America falsely redraw the reservoir boundary on its maps so as to excise the Mason property from the reservoir for the purpose of increasing the percentage of the surface acreage of the reservoir controlled by NFG to greater than 75 percent. Accordingly, Complainant requests that the Commission:

(1) Investigate and find, pursuant to 15 U.S.C. 717m, that defendants did knowingly and willfully falsify data provided to the Commission concerning the size and shape of the West Independence reservoir in violation of 18 U.S.C. 1001;

(2) Transmit to the Attorney General of the United States, pursuant to 15 U.S.C. 717s(a) and 18 U.S.C. 1001, evidence of defendant's said violations of 18 U.S.C. 1001 for his consideration regarding proceedings which should be instituted.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before October 3, 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. 77-26229 Filed 9-8-77; 8:45 am]

[Docket Nos. G-2801, CI72-50, G-10020, and CI71-722]

**GETTY OIL CO. (OPERATOR), ET AL., AND PHILLIPS PETROLEUM CO. (OPERATOR), ET AL.**

**Certification of Stipulation and Settlement Proposal**

SEPTEMBER 2, 1977.

Take notice that on August 22, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed stipulation and settlement together with the related hearing record in the above referenced proceeding. The proposed settlement relates to Phillips Petroleum Co., Docket Nos. G-10020 and CI71-722.

At a hearing convened, pursuant to the notice of the Presiding Judge issued August 18, 1977, for the purpose of re-

ceiving the proposed settlement, Phillips Petroleum Co. (Phillips) requested that the Presiding Judge certify to the Commission the settlement proposal. All parties present at the hearing, including the Commission Staff, indicated that they agreed to said settlement.

The proposed settlement relates to gas production attributable to the interest of Phillips Petroleum Co. in the Erath Field Unit, Vermilion Parish, La. Presently, Phillips delivers its Erath Field Unit interest to Columbia Gas Transmission Corp. (Columbia). Phillips had claimed, however, that Trunkline Gas Co. (Trunkline) was contractually entitled to Phillips' Erath Field Unit gas, 80% of which gas Trunkline was obligated to redeliver for Phillips' use. Under the proposed settlement Phillips would waive any right to receive a portion of such volumes for company use, and Phillips' Erath Field Unit interest would be apportioned 50% each to Columbia and Trunkline. The proposed settlement would resolve all outstanding issues relating to Docket Nos. G-10020 and CI71-722.

Any person desiring to comment on the Stipulation and Settlement Proposal should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before September 16, 1977.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 77-26230 Filed 9-8-77; 8:45 am]

[Docket No. ER76-555]

**INTERSTATE POWER CO.**

**Compliance Filing**

SEPTEMBER 2, 1977.

Take notice that Interstate Power Co. (Interstate), on August 25, 1977, tendered for filing revised rate schedules as First Revised Supplement No. 2 to Rate Schedule FPC Nos. 38, 40, 67, 101, 103 and 105, and First Revised Supplement No. 3 to Rate Schedule FPC No. 108. Interstate states that the effective dates of the rate schedules for the cities of Jackson, Windom, and Lakefield conform to the contract expiration dates of August 2, 1978, April 6, 1979, and March 16, 1979, and that the revised settlement rate levels to Adrian, Luverne, Westbrook and Worthington, Minn., are effective with the August billing month.

Interstate states that the filing is made pursuant to the Order Approving Settlement Agreement issued by the Commission on August 3, 1977.

Interstate states that copies of the filing were sent to each municipal customer.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 26, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on

file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 77-26231 Filed 9-8-77; 8:45 am]

[Docket No. ER77-573]

**IOWA-ILLINOIS GAS AND ELECTRIC CO.**

**Filing of Facilities Agreement**

SEPTEMBER 2, 1977.

Take notice that Iowa-Illinois Gas and Electric Co., Davenport, Iowa (Company) on August 29, 1977, tendered for filing a Facilities Agreement with Eastern Iowa Light and Power Cooperative, Wilton, Iowa (Eastern Iowa), dated February 15, 1977.

Relating to facilities to be rearranged or provided by Company at an estimated cost of \$122,000, consisting principally of a 69-kV circuit breaker-equipped terminating bay at Company's Hills Substation near Hills, Johnson County, Iowa, the Facilities Agreement, augmenting Eastern Iowa's transmission capacity to its loads, is proposed to become effective on the in-service date of facilities, and Company seeks waiver of the notice requirements accordingly.

Company states the purpose of the proposed rates and charges are to recover reflected costs of the facilities to be provided and for associated operation and maintenance of those facilities, for transformation and associated operation and maintenance, and for transformation copper and core losses, under a variety of foreseeable circumstances, all as more fully set forth in the Agreement.

Company states copies of the filing have been mailed to Eastern Iowa and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 77-26232 Filed 9-8-77; 8:45 am]

[Docket No. CP70-239]

**KANSAS-NEBRASKA NATURAL GAS CO., INC.**

**Petition To Amend**

SEPTEMBER 2, 1977.

Take notice that on August 26, 1977, Kansas-Nebraska Natural Gas Co., Inc.

(Petitioner), P.O. Box 608, Hastings, Nebr. 68901, filed in Docket No. CP70-239 a petition to amend the Commission's order of July 22, 1970 (44 FPC 149), as amended by orders issued June 30, 1972 (47 FPC 1747), and May 9, 1977 (57 FPC ----) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to deliver gas to Cities Service Gas Co. (Cities Service) at an existing exchange point which has been used only as a point for receipt of gas from Cities Service to Petitioner, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner says that by its order of July 22, 1970, in Docket No. CP70-258 (44 FPC 149), the Commission authorized Cities Service to exchange up to 150,000 Mcf of natural gas per day with Petitioner pursuant to an exchange agreement dated March 27, 1970. Under the terms of the exchange agreement, says Petitioner, Cities Service delivers gas to Petitioner at the discharge of Cities Service's Hugoton Compressor station in Grant County, Kans.; and Petitioner delivers equivalent volumes to Cities Service at the Haven Exchange Point on Cities Service's Hugoton-Kansas City pipeline near the town of Haven in Reno County, Kans.

By amendments on February 4, 1972, July 26, 1973, and April 13, 1976, the exchange agreement was amended to provide for additional points of delivery from Cities Service to Applicant at the Copeland Exchange Point in Haskell County, Kans., the Unruh Exchange Point in Edwards County, Kans., and the Deerfield Exchange Point in Kearny County, Kans., respectively. On May 28, 1975, an order was issued in Docket No. CP74-23 authorizing Applicant to receive gas from Cities at these delivery points.

Petitioner says that on June 30, 1977, the exchange agreement was further amended to provide that the enlisting exchange point at Cities Service's Hugoton Compressor Station may be used for either the delivery or receipt of gas by either party. Accordingly, Petitioner now proposes to deliver gas which it receives from Cities Service at the Deerfield exchange point back to Cities Service at the Hugoton Compressor Station. Petitioner states that it can deliver gas to Cities Service at the Hugoton Station without the addition of any facilities and without significant changes in the operation of its pipeline system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 26, 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.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.77-26233 Filed 9-8-77;8:45 am]

[Docket No. ER77-572]

#### KANSAS POWER AND LIGHT CO.

##### Proposed Changes in Rates and Charges

SEPTEMBER 2, 1977.

Take notice that on August 29, 1977, The Kansas Power and Light Co. (Kansas) tendered for filing a newly executed contract dated July 28, 1977, with the City of Osage City, Kans. for wholesale electric service to that community. The proposed effective date is not later than July 1, 1978. Kansas states that copies of the contract have been mailed to the City of Osage City and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.77-26234 Filed 9-8-77;8:45 am]

[Docket No. ER77-569]

#### MONTANA LIGHT AND POWER CO.

##### Filing of Rate Schedule

SEPTEMBER 2, 1977.

Take notice that Montana Light and Power Co. (ML&P) on August 24, 1977, tendered for filing ML&P Rate Schedule FPC No. 2, consisting of an agreement dated May 1, 1977, between ML&P and Pacific Power & Light Co. (PP&L). ML&P states that this rate schedule is filed in compliance with the Commission's Order Approving Settlement issued July 25, 1977, in Docket No. ER77-43.

ML&P indicates that the agreement sets forth the basis for the pricing of energy sold by ML&P to PP&L.

ML&P requests waiver of the Commission's notice requirements to allow said rate schedule to become effective as of May 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol

Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.77-26235 Filed 9-8-77;8:45 am]

[Docket No. ER77-43]

#### MONTANA LIGHT AND POWER CO.

##### Compliance Filing

SEPTEMBER 2, 1977.

Take notice that Montana Light & Power Co. (ML&P) on August 24, 1977, tendered for filing ML&P Rate Schedule FPC No. 2, consisting of an agreement dated May 1, 1977, between ML&P and Pacific Power & Light Co. (PP&L), and a letter dated April 22, 1977, from PP&L to ML&P. ML&P states that this rate schedule is filed in compliance with the Commission's Order Approving Settlement issued on July 25, 1977, in the above-named docket.

ML&P indicates that the agreement sets forth the basis for the pricing of energy sold by ML&P to PP&L. PP&L states in its letter of April 22, 1977, in view of current water conditions in the Pacific Northwest, beginning May 1, 1977, and until further notice, PP&L will purchase all electric energy that may flow or be delivered into PP&L's system from ML&P, at the Tibby point of delivery, at a rate of 10 miles per kilowatt-hour.

Any person desiring to be heard or to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.77-26236 Filed 9-8-77;8:45 am]

[Docket No. CP76-247]

#### NORTHERN NATURAL GAS CO. AND PANHANDLE EASTERN PIPE LINE CO.

##### Petition To Amend

SEPTEMBER 2, 1977.

Take notice that on August 25, 1977, Northern Natural Gas Co. (Northern),

2223 Dodge Street, Omaha, Nebr. 68102, and Panhandle Eastern Pipe Line Co. (Panhandle), P.O. Box 1642, Houston, Tex. 77001, (Petitioners) filed in Docket No. CP76-247 a petition to amend the Commission's order issued August 9, 1976 (56 FPC \_\_\_\_\_), as amended on January 11, 1977 (57 FPC \_\_\_\_\_), and June 10, 1977 (57 FPC \_\_\_\_\_), pursuant to section 7(c) of the Natural Gas Act in the instant docket to authorize Petitioners to add and delete wells to the exchange of natural gas as required from time to time in the Anadarko Area, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by the Commission's order of August 9, 1976, they are authorized to transport and exchange gas on volume-for-volume basis in accordance with two Gas Exchange Agreements dated August 11, 1957. It is stated that said order was amended on June 10, 1977, by adding two wells on Northern's system and on January 11, 1977, by adding two wells on Panhandle's system.

Petitioners assert that the purpose of this exchange is to enable them to receive into their respective pipeline systems for general system use, by displacement, gas that has been committed by producers from properties which would not otherwise be feasible or economical to connect the existing system of the Petitioner to which the gas is committed. Petitioners state that the grant of the certificate authorization requested would materially assist Petitioners in being able to assure producers in the area of prompt connection of wells while at the same time avoiding delay incident to the filing and processing of individual applications for each addition or deletion.

Petitioners indicate that they would install jurisdictional facilities required to connect such exchange wells to their systems pursuant to their respective budget-type certificates for gas-purchase facilities, which, they state, specifically include authorization to construct and operate such facilities and to deliver gas in the implementation of authorized exchange arrangements with other pipelines.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 26, 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.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 77-26237 Filed 9-8-77; 8:45 am]

[Docket No. ER77-530]

OHIO EDISON CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Granting Intervention, Providing for a Hearing and Establishing Procedures

AUGUST 31, 1977.

On July 29, 1977, Ohio Edison Co. (Ohio) submitted for filing a proposed rate increase of \$8,010,000 (35.9 percent) for the 12-month period succeeding the proposed effective date of September 1, 1977. The proposed increase is applicable to the customers itemized on Attachment A.<sup>1</sup>

The Company's case-in-chief is based on a test period consisting of the 12 months ended June 30, 1978. Attachment B is a copy of the Company's Statement N for this period which indicates that with the proposed rate increase, revenues will substantially equal the cost of service at the claimed rate of return of 10.4 percent on equity.

Notice of Ohio's filing was issued on August 9, 1977, with comments, protests, or petitions to intervene due on or before August 19, 1977.

On August 19, 1977, a joint petition to intervene and motion to reject the proposed rates was filed by the Cities of Amherst, Beach City, Brewster, Columbiana, Cuyahoga Falls, Gallion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroeville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington, Ohio (Ohio Cities). Alternatively, Ohio Cities request that the Commission suspend Ohio's rates for five months.

Ohio Cities state that Ohio's filing with a requested effective date of September 1, 1977, violates a moratorium agreed to by the parties in the Settlement Agreement in Docket Nos. E-9497, et al., as approved by Commission order issued July 6, 1977. They maintain that the terms of the Agreement foreclose Ohio from seeking any increase in its wholesale rates if such increase is effective prior to November 16, 1977.

Ohio Cities argue that the filing should be rejected because (1) it was tendered for filing on July 29, 1977, more than 90 days prior to the date when Ohio could first have the rates become effective under the terms of the Docket No. E-9497, et al. Settlement and is thus contrary to Section 35.3(a) of the Commission's Regulations; and (2) Ohio's Period I Exhibit fails to comply with the seven month requirement of Section 35.13(b) (4) (iii) of the Commission's Regulations to the extent that August 16, 1977, is the first date on which Ohio's filing could have lawfully been submitted, and the last day of Ohio's Period I (December 31, 1976) is more than seven months prior to that date.

On August 29, 1977, Ohio filed an Answer to the Cities' Petition For Leave to Intervene, Motion to Reject Rate Filing, and Complaint And Request For Suspension of Rate Schedules and Hearing.

<sup>1</sup> Attachment A contains the designations and descriptions.

The Commission does not agree with Ohio Cities' contention that Ohio's proposed rate increase should be rejected because the proposed effective date violates the terms of the above-mentioned settlement agreement. The agreement only indicated when a rate increase could first become effective, not when a filing could be made or what cost support should be utilized. Although Ohio requested an effective date of September 1, 1977, it acknowledges that the agreement precludes an increase from becoming effective prior to November 16, 1977. Consequently, it requested suspension of the filing at least until that date.

Alternatively, good cause would exist to waive the 90-day filing requirement of section 35.3(a) of the Regulations. Otherwise, Ohio would be obligated to resubmit a cost of service study containing a Period I ending no earlier than January 16, 1977, only 16 days after December 31, 1976, the termination date of the Period I study submitted by Ohio. We do not believe that the difference of 16 days warrants the expense that would be incurred by Ohio in revising its study.

The proposed increase in rates and charges tendered by Ohio on July 29, 1977, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

The Commission will therefore accept Ohio's rates for filing, suspend them from operation for four months, until January 1, 1978, when they will become effective subject to refund and establish hearing procedures.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission order a hearing concerning the lawfulness of the proposed increased rates tendered by Ohio on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter provided.

(2) Participation of Ohio Cities in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the Federal Power Act, particularly Sections 205, 206, 301, 307, 308, and 309 thereof, the Commission's rules and regulations, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Ohio in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates filed by Ohio are hereby accepted for filing and suspended for 4 months, until January 1, 1978, when they shall become effective subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 16, 1978. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR § 3.5(d)) shall convene a settlement con-

ference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(E) Ohio Cities are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however*, that participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders issued in this proceeding.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

FILED: JULY 29, 1977

Designation	Other Party
(1) Supplement No. 2 to Rate Schedule FPC No. 142 (Supersedes Supplement No. 1).	Amherst
(2) Supplement No. 2 to Rate Schedule FPC No. 123 (Supersedes Supplement No. 1).	Beach City.
(3) Supplement No. 2 to Rate Schedule FPC No. 124 (Supersedes Supplement No. 1).	Brewster.
(4) Supplement No. 2 to Rate Schedule FPC No. 125 (Supersedes Supplement No. 1).	Columblana.
(5) Supplement No. 2 to Rate Schedule FPC No. 126 (Supersedes Supplement No. 1).	Cuyahoga Falls.
(6) Supplement No. 2 to Rate Schedule FPC No. 127 (Supersedes Supplement No. 1).	Gallon.
(7) Supplement No. 2 to Rate Schedule FPC No. 128 (Supersedes Supplement No. 1).	Grafton.
(8) Supplement No. 2 to Rate Schedule FPC No. 129 (Supersedes Supplement No. 1).	Hubbard.
(9) Supplement No. 2 to Rate Schedule FPC No. 130 (Supersedes Supplement No. 1).	Monroeville.
(10) Supplement No. 2 to Rate Schedule FPC No. 131 (Supersedes Supplement No. 1).	Hudson.
(11) Supplement No. 2 to Rate Schedule FPC No. 132 (Supersedes Supplement No. 1).	Lodi.
(12) Supplement No. 2 to Rate Schedule FPC No. 133 (Supersedes Supplement No. 1).	Lucas.
(13) Supplement No. 2 to Rate Schedule FPC No. 134 (Supersedes Supplement No. 1).	Milan.

Designation	Other Party
(14) Supplement No. 2 to Rate Schedule FPC No. 135 (Supersedes Supplement No. 1).	Prospect.
(15) Supplement No. 2 to Rate Schedule FPC No. 136 (Supersedes Supplement No. 1).	Seville.
(16) Supplement No. 2 to Rate Schedule FPC No. 137 (Supersedes Supplement No. 1).	South Vienna.
(17) Supplement No. 2 to Rate Schedule FPC No. 138 (Supersedes Supplement No. 1).	Wadsworth.
(18) Supplement No. 2 to Rate Schedule FPC No. 139 (Supersedes Supplement No. 1).	Wellington.
(19) Supplement No. 3 to Rate Schedule FPC No. 140 (Supersedes Supplement No. 2).	Oberlin.
(20) Supplement No. 3 to Rate Schedule FPC No. 141 (Supersedes Supplement No. 2).	Niles.
(21) Supplement No. 3 to Rate Schedule FPC No. 122 (Supersedes Supplement Nos. 1 & 2).	Newton Falls.

Each of the above designated rate schedule supplements is Ohio Edison's rate for Municipal Resale Service—Transmission Voltage.

ATTACHMENT B.—Statement N, Ohio Edison Co. municipal resale service; comparison of cost of service with revenues under the proposed rates, twelve months ending June 30, 1978

Class of service	Cost of service (statement M, sec. 1)	Revenue under proposed rates (statement N, page 2)
(1)	(2)	(3)
Transmission.....	\$29,606,700	\$29,606,000
Primary.....	399,500	399,500
Total.....	30,006,200	30,005,500

[FR Doc.77-26181 Filed 9-8-77;8:45 am]

[Docket No. ES77-57]

### OKLAHOMA GAS AND ELECTRIC CO. Application

SEPTEMBER 2, 1977.

Take notice that on August 26, 1977, Oklahoma Gas and Electric Co. (Applicant), filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured Promissory Notes to commercial banks and to commercial paper dealers in amounts not exceeding in the aggregate \$125,000,000 outstanding at any one time.

The Promissory Notes to be issued by the Applicant to commercial banks will be issued on various days during the period ending December 31, 1979, but no Note will mature more than twelve months after date of issue or renewal. The interest rate of such Notes will be at the prime loan interest rate of the banks in effect from time to time.

The Promissory Notes issued to commercial paper dealers will be issued on

various days during the period ending December 31, 1979, but no Note will mature more than nine months after date of issue nor will any Note be extended or renewed. The interest rate on such Notes will be dependent upon the term of the Notes and the money market conditions at the time of issuance.

According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of Applicant's receivables arising out of the sale of electric service and (2) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding year.

Applicant states that the proceeds from the issuance of the Notes will be added to the general funds of the Applicant, which general funds will be used, among other things, to finance in part the Applicant's 1978 and 1979 construction program. Applicant estimates that construction expenditures for the year ending December 31, 1978 will total about \$184,000,000 and for the year ending December 31, 1979 will total about \$177,000,000.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.77-26238 Filed 9-8-77;8:45 am]

[Docket No. CP77-580]

### SEA ROBIN PIPELINE CO.

#### Pipeline Application

SEPTEMBER 2, 1977.

Take notice that on August 22, 1977, Sea Robin Pipeline (Sea Robin), filed an application for a certificate of public convenience and necessity in Docket No. CP77-580, pursuant to section 7(c) of the Natural Gas Act, requesting authorization to acquire, through assignment of lease, all rights and interests in a 1,200-horsepower compressor facility and related equipment at Block 222 Ship Shoal Area, Offshore Louisiana. Furthermore, Sea Robin requests permission to reimburse the Operator of the subject block, Southern Natural Gas Exploration and Production Division (Southern E & P), for all expenses incurred in the transportation, installation, operation, maintenance and rental of such compressor and related equipment.

Sea Robin states that it purchases gas from Southern E & P, The Offshore Co., Chater Exploration & Production Co., Pennzoil Producing Co., Oxy Petroleum Inc., Amoco Production Co. and Dixilyn Corp. at Block 222, Ship Shoal Area. Sea Robin further states that in order to increase production and to recover additional reserves it will be necessary to install compression at the Block 22 loca-

tion: Both the subsequent accelerated production and enhanced recovery of volumes to be realized by such compression are vital to Sea Robin's continued efforts to not only take all available steps toward assuring the continued availability of its current gas supply but also to strive toward expediting the flow of gas volumes whenever possible, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 26, 1977, should 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.

Take further notice that, pursuant to the authority contained in and 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 not 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.77-26239 Filed 9-8-77; 8:45 am]

[Docket No. CP77-589]

#### UNITED GAS PIPE LINE CO.

##### Application

SEPTEMBER 2, 1977.

Take notice that on August 25, 1977, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP77-589 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of tap facilities and the transportation of natural gas in interstate commerce all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Mid-Louisiana Gas Co. (Mid-La) in accordance with the terms and agreement between Applicant and Mid-La dated July 15, 1977. According to Applicant, the agreement provides that Mid-La will deliver to Applicant up to 2,500 Mcf per day of gas for transportation. The gas is proposed to be delivered at one or more taps to be installed by Applicant at Mid-La's expense at a point on United's 18-inch Baton Rouge-New Orleans line in Section 67, T. 11 S., R. 5 E., St. James Parish, La. Under the terms of the agreement, Applicant states, it will redeliver an equivalent volume to Mid-La, less one and one-half percent or such greater percentage as may be determined on a yearly basis as a charge for fuel and gas used by the company. Redelivery is proposed to be at the existing authorized point of interconnection between Applicant's system and Mid-La's system at Scotland, East Baton Rouge Parish, La., or at other mutually agreeable existing authorized points of interconnection between the two systems.

Applicant states that the term of the agreement is five years beginning on the date deliveries of gas commence thereunder. The agreement will continue from year to year thereafter until cancelled by either party on proper notice. Mid-La, it is said, has agreed to pay Applicant for all gas transported an amount equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's Southern or Northern Rate Zone, as applicable, less any amount attributable to gas consumed in the operation of Applicant's pipeline system. Applicant says that its current average jurisdictional transmission cost of service, excluding a component for gas consumed in the operation of its pipeline system, is 17.92 cents per Mcf in its Southern Rate Zone and 20.04 cents per Mcf in its Northern Rate Zone. The Northern Rate Zone rate will apply if the redelivery point is located in the Northern Rate Zone; otherwise the Southern Rate Zone rate will apply.

Applicant estimates that the cost of the proposed tap will be \$950. It is said that no new financing will be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 26, 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 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.77-26240 Filed 9-8-77; 8:45 am]

#### FEDERAL RESERVE SYSTEM

##### FIRST NATIONAL FAIRBURY CORP.

##### Formation of Bank Holding Company

First National Fairbury Corporation, Lincoln, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Fairbury, Fairbury, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 30, 1977.

Board of Governors of the Federal Reserve System, September 1, 1977.

ROBERT E. MATTHEWS,  
Assistant Secretary of the Board.

[FR Doc.77-26301 Filed 9-8-77; 8:45 am]

#### FIRST SECURITY NATIONAL CORP.

##### Order Approving Acquisition of FSN Life Insurance Company

First Security National Corporation, Beaumont, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), to acquire FSN Life Insurance Company, Beaumont, Texas ("Company"), a company that will engage de novo in the activity of underwriting, directly and as reinsurer, credit life and credit accident and health insurance that is directly related to extensions of credit by Applicant's subsidiary banks. Such activity has been

determined by the Board to be closely related to banking (12 CFR § 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 33065 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of Dial M. Dunkin, Harlingen, Texas ("Protestant"), in the light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant, the 16th largest banking organization in Texas, controls ten subsidiary banks with combined total deposits of \$325.8 million,<sup>1</sup> representing 0.6 percent of the total deposits in commercial banks in the State. Applicant also controls one nonbanking subsidiary, a mortgage lender, that is dormant and funding no new loans.

Company is chartered under the laws of Texas and will engage in the activity of underwriting, directly and as reinsurer, credit life and credit accident and health insurance sold in connection with extensions of credit by Applicant's subsidiary banks.<sup>2</sup> Inasmuch as the subject proposal involves engaging in this activity de novo, consummation of this transaction would not have any significant adverse effects upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10), fn. 7).

Applicant proposes to offer, through Company, various credit life and credit

accident and health insurance coverages to its customers at rates ranging from 3.4 to 3.8 percent below the approved and prima facie rates established in Texas.<sup>3</sup> In addition, upon consummation of the subject proposal, Company will retain the option of reinsuring any credit-related policies written by Allied for Applicant's customers since August 1, 1976. If such insurance is ceded, Applicant has committed to rebate to such in-force policy holders the differences between the rates originally paid and the rates that would have been paid if such policies had been written by Company at the proposed reduced rates, thus assuring that all policy holders insured by Company will receive the benefits of the proposed reduced rates. Based upon these factors and other facts of record,<sup>4</sup> the Board concludes that the subject proposal is in the public interest.

Protestant contends that the interim agreement<sup>5</sup> entered into between Applicant and Allied that requires Allied to cede to and reinsure with Company all credit life and credit accident and health insurance originated by Applicant between the effective date of the agreement, August 1, 1976, and the date of approval of this application, would violate the prior approval provisions of § 4(c)(8) of the Act in that Company would, in effect, be engaging in the activity for which it is now seeking Board approval prior to securing such approval. It is the Board's view, however, that the agreement between Applicant and Allied does not violate the Act. The activity for which Applicant and Company seek approval, as set forth at 12 CFR § 225.4(a)(10), is "acting as underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by the bank holding company system." If such approval is given, Company will be allowed to begin such underwriting activities. The insurance business ceded to or reinsured with Company will have been underwritten by Allied, not by Company. Inasmuch as Applicant is not engaging in the activity of underwriting, the Board concludes that it does not require prior Board approval to enter into the existing agreement with Allied. The Board also notes that if this application is approved, those customers purchasing insurance underwritten by Allied pur-

suant to the agreement with Company will receive a rebate from Company based upon the difference between the rate charged by Allied and the proposed lower rate to be charged by Company. Therefore, it is concluded, based on the foregoing, that the agreement does not cause Applicant to engage in any activities requiring prior Board approval.

Based upon the foregoing and other considerations reflected in the record, including a commitment by Applicant to maintain on a continuing basis the public benefits which the Board has found to be reasonably expected to result from this proposal and upon which the approval of this proposal is based, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

This transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,  
effective September 1, 1977.

ROBERT E. MATTHEWS,  
Assistant Secretary of the Board.

[FR Doc. 77-26302 Filed 9-8-77; 8:45 am]

## GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 29]

### FEDERAL PROCUREMENT

Current Interest Rate of 7½ Percent  
Pursuant to Public Law 92-41

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41 (50 U.S.C. App. 1215 (b)(2)) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires January 1, 1978, unless sooner revised or superseded.

3. *Background.* Pub. L. 92-41 provides that the Secretary of the Treasury shall set the interest rate to be paid by contractors on excessive profits as determined by the Renegotiation Board. Various provisions of the FPR require contractors to pay interest on amounts owed the Government at the rate established

\*Voting for this action: Vice Chairman Gardner and Governors Wallach, Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns.

<sup>1</sup> Unless otherwise indicated, all banking data are as of December 31, 1976.

<sup>2</sup> Following the decision to file for permission to enter the credit life and credit accident and health insurance business, Applicant entered into an agreement, effective August 1, 1976, with Allied Bankers Life Insurance Company ("Allied"), Dallas, Texas, which provides that Allied will underwrite all credit life and credit accident and health insurance submitted by Applicant or its subsidiaries. When Applicant acquires Company, Allied agrees to cede to and reinsure with Company all insurance business originated by Applicant or its subsidiaries. If this application were denied, Allied would continue as the underwriter of credit-related insurance for customers of Applicant's subsidiaries.

<sup>3</sup> *Prima facie* rates are the maximum rates allowed by the state for particular types of insurance coverage. Where no *prima facie* rate exists for a particular type of coverage, the insurance company may apply to the State insurance department for approval of a proposed rate.

<sup>4</sup> Upon consummation, Company will enter into a service agreement with Jim Stewart and Associates ("Stewart"), Dallas, Texas, which will provide technical assistance in the management of Company. This will enable Applicant to minimize the burden of extensive training and staffing requirements. In exchange for such technical assistance, Company will pay Stewart a fee equal to 6 percent of the net premiums written by Company.

<sup>5</sup> See footnote 2.

by the Secretary of the Treasury pursuant to Pub. L. 92-41. The FPR also provides that the same rate of interest shall be paid by the Government when a contractor's claim is decided in his favor under the Disputes clause.

4. *Agency information.* The Secretary of the Treasury has established an interest rate of 7½ percent as applicable to the 6-month period beginning on July 1, 1977, and ending on December 31, 1977. The following sections of the Federal Procurement Regulations are affected by the interest rate:

(Sections 1-1.322, 1-7.203-15, 1-8.212-1(f), 1-8.701(j), 1-8.702(j), 1-8.703(j), 1-8.704-1(f), 1-8.706(h), 1-8.804-2(b), 1-8.806-4 (article 6, paragraph (e)), 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).)

Dated: August 25, 1977.

ROBERT P. GRAHAM,  
Commissioner, Federal Supply Service.

[FR Doc. 77-26191 Filed 9-8-77; 8:45 am]

### QUARTERLY REPORT ON ENVIRONMENTAL ACTIONS

March 1, 1977, Through May 31, 1977

Pursuant to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), and section 1500.6(e) of the Council on Environmental Quality Guidelines for the Preparation of Environmental Impact Statements (38 FR 20550) the following is a list of administrative actions for which environmental impact statements were under preparation by the General Services Administration from March 1, 1977, through May 31, 1977, and a list of administrative actions for which environmental impact statements are planned in the future. Also listed are actions for which environmental assessments were completed with negative declarations.

Dated: August 29, 1977.

JAMES B. SHEA, Jr.,  
Commissioner,  
Public Buildings Service.

#### ENVIRONMENTAL IMPACT STATEMENTS/ NEGATIVE DECLARATIONS

##### REGION 1

- A. EIS' in preparation:  
Pt. Kent, Maine—Preliminary draft EIS for construction of a new Border Station.  
Springfield, Mass.—Draft EIS for construction of a new Courthouse-Federal Office Building and Parking Facility.  
Providence, R.I.—Preliminary draft EIS for construction of a Federal Office Building and the repair and alteration of the existing Federal Building-U.S. Courthouse.  
B. EIS's planned: Boston, Mass.—Preliminary draft EIS for lease construction of a new Veterans Administration Clinic Building.  
C. Environmental assessments completed with negative declarations: None.

##### REGION 2

- A. EIS' in preparation:  
New York, N.Y.—201 Varick Street—Draft EIS for repair and alteration project to include a detention facility for illegal aliens.  
Otisville, N.Y.—Supplement to final EIS on Federal Correctional Institution.

- B. EIS' planned: None.  
C. Environmental assessments completed with negative declarations: None.

##### REGION 3

- A. EIS' in preparation:  
Suitland, Md.—Draft EIS for the Suitland Federal Center Master Plan—Southern Portion including Smithsonian Institution Museum Support Center.  
Washington, D.C.—Draft EIS for the repair and alteration of the Old Post Office (12th and Pennsylvania Avenue NW.).  
Washington, D.C.—Draft EIS for new construction—Pennsylvania Avenue Annex (extension to the New Post Office) between 12th and 14th Street, along Pennsylvania Avenue NW.

Washington, D.C.—Draft EIS for the West Heating Plant, 29th and K Streets NW., modification to boilers and ancillary equipment (repair and alteration).

- B. EIS' planned: None.  
C. Environmental assessments completed with negative declarations: None.

##### REGION 4

A. EIS' in preparation: Savannah, Ga.—Draft EIS for new construction of a Federal Office Building and Parking Facility.

B. EIS' planned: Knoxville, Tenn.—Draft EIS for new construction of a Federal Building.

C. Environmental assessment completed with negative declarations:  
Tallahassee, Fla.—Repair and Alteration of U.S. Post Office and Courthouse Conversion.

Miami, Fla.—Repair and Alteration of U.S. Post Office and Courthouse Conversion.

Atlanta, Ga.—Repair and Alteration of U.S. Courthouse Conversion.

Plains, Ga.—Presidential Compound (Security Improvements).

##### REGION 5

A. EIS's in preparation:  
East St. Louis, Ill.—Final EIS for construction of a Federal Building and Courthouse.

Detroit, Mich.—Draft EIS for acquisition, repair, and alteration of a Secondary Truck Inspection Facility for the U.S. Customs Service.

B. EIS' planned: Detroit, Mich.—Draft EIS for the U.S. Federal Courthouse Annex (new construction for the Bureau of Prisons).

C. Environmental assessments completed with negative declarations: None.

##### REGION 6

A. EIS' in preparation: Omaha, Neb.—Draft EIS for construction of a Federal Office Building and Vehicle Maintenance Facility.

B. EIS' planned: None.  
C. Environmental assessments completed with negative declarations: None.

##### REGION 7

A. EIS's in preparation:  
Santa Fe, N. Mex.—Draft EIS for construction of the National Park Service Building.

El Paso, Tex.—Draft EIS for construction of Federal Building and Parking Facility and the repair and alteration of Courthouse Federal Building Conversion.

Dallas, Tex.—Final EIS for repair and alteration of the Federal Building at 1114 Commerce Street.

B. EIS's planned:  
Anapra, N. Mex.—Draft EIS for construction of a Border Station.

San Antonio, Tex.—Master Plan of Federal Center.

Corpus Christi, Tex.—Draft EIS for Federal construction of a Courthouse.

Tulsa, Okla.—Draft EIS for repair and alteration of Federal Building—Parking Facility.

C. Environmental assessment completed with negative declaration: None.

##### REGION 8

A. EIS' in preparation: Salt Lake City, Utah—Final EIS for construction of the Bureau of Mines Metallurgy Research Center.

B. EIS' planned: None.  
C. Environmental assessments completed with negative declaration: None.

##### REGION 9

A. EIS' in preparation:  
Los Angeles, Calif.—Draft EIS for construction of a Parking Facility.

West Los Angeles, Calif.—Draft EIS for construction of a Federal Bureau of Investigation—Parking Facility.

B. EIS' planned:  
San Jose, Calif.—Draft EIS for construction of a Federal Building and Parking Facility.

San Francisco, Calif.—Draft EIS for construction of a Federal Building.

Menlo Park, Calif.—Draft EIS for U.S. Geological Survey.

C. Environmental assessments completed with negative declarations: None.

##### REGION 10

A. EIS' in preparation: None.  
B. EIS' planned: None.  
C. Environmental assessments completed with negative declarations: None.

[FR Doc. 77-26299 Filed 9-8-77; 8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

#### ADVISORY COMMITTEES

##### Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of October 1977:

#### SOCIAL WORK EDUCATION REVIEW COMMITTEE

Date and time: October 11, 9 a.m.  
Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Type of meeting: Open meeting.  
Contact: Dr. Milton Wittman, Parklawn Building, Room 8C-26, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4187).

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social work education and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: from 9 a.m. to 4 p.m., on October 11, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute.

**DRUG ABUSE RESEARCH REVIEW  
COMMITTEE**

Date and time: October 25-28; 9 a.m.  
Place: Conference Rooms M, J, and L, Park-  
lawn Building, 5600 Fishers Lane, Rock-  
ville, Md. 20857.

Type of meeting: Open—October 25, 9-9:30  
a.m. Closed—Otherwise.

Contact: Mrs. Lucy Stevens, Rockwall  
Building, Room 750, 11400 Rockville Pike,  
Rockville, Md. 20852.

Purpose: The Committee is charged with the  
initial review of grant applications for  
Federal assistance in the program areas  
administered by the National Institute on  
Drug Abuse relating to research activities  
and makes recommendations to the Na-  
tional Advisory Council on Drug Abuse for  
final review.

Agenda: From 9 a.m. to 9:30 a.m., October 25,  
the meeting will be open for discussion of  
administrative announcements and pro-  
gram developments. Otherwise, the Com-  
mittee will be performing initial review  
of grant applications for Federal assistance  
and will not be open to the public, in  
accordance with the determination by the  
Acting Administrator, Alcohol, Drug Abuse  
and Mental Health Administration, pur-  
suant to the provisions of section 552b(c)  
(6), Title 5, U.S. Code and section 10(d)  
of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may  
be obtained from the contact persons  
listed above. The NIMH Information Of-  
ficer who will furnish upon request sum-  
maries of the meeting and rosters of the  
committee members is Mr. Edwin Long,  
Deputy Director, Division of Scientific  
and Public Information, NIMH, Park-  
lawn Building, Room 15-105, 5600 Fishers  
Lane, Rockville, Md. 20857 (301-443-  
3600). The NIDA Information Officer  
who will furnish summaries of the meet-  
ing and a roster of the committee mem-  
bership on request is Mr. Kenneth  
Howard, Director, Office of Communica-  
tions and Public Affairs, Rockwall Build-  
ing, Room 110, 11400 Rockville Pike,  
Rockville, Md. 20852 (301-443-6500).

Dated: September 2, 1977.

CAROLYN T. EVANS,  
*Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administra-  
tion.*

[FR Doc.77-26219 Filed 9-8-77; 8:45 am]

**ADVISORY COMMITTEES**

**Meeting**

In accordance with section 10(a)(2)  
of the Federal Advisory Committee Act  
(5 U.S.C. Appendix I), announcement is  
made of the following National Advisory  
body scheduled to assemble during the  
month of October 1977:

**NATIONAL ADVISORY COUNCIL ON DRUG ABUSE**

Date and time: October 3-4; 9:30 a.m.  
Place: Conference Room 873, Rockwall Build-  
ing, 11400 Rockville Pike, Rockville, Md.  
20852.

Type of meeting: Closed—9:30 a.m.—noon,  
October 3. Open—Otherwise.

Contact: Ms. Pamela Thurber, Room 844,  
Rockwall Building, 11400 Rockville Pike,  
Rockville, Md. 20852. (301-443-8618).

Purpose: The National Advisory Council on  
Drug Abuse advises and makes recom-  
mendations to the Secretary, Department  
of Health, Education, and Welfare, the  
Administrator, Alcohol, Drug Abuse, and  
Mental Health Administration, and the  
Director, National Institute on Drug Abuse,  
on the development of new initiatives and  
priorities and the efficient administration  
of drug abuse research, training, demon-  
stration, prevention, and community ser-  
vices programs. The Council also gives ad-  
vice on policies and priorities for drug  
abuse grants and contracts and reviews  
and makes recommendations on grant ap-  
plications.

Agenda: From 9:30 a.m. to 12 noon, October  
3, the meeting will be closed for final re-  
view of grant applications for Federal as-  
sistance in accordance with the determina-  
tion by the Acting Administrator, Alcohol,  
Drug Abuse, and Mental Health Adminis-  
tration, pursuant to the provisions of sec-  
tion 552b(c)(6), Title 5, U.S. Code and sec-  
tion 10(d) of Pub. L. 92-463 (5 U.S.C.  
Appendix I).

The remainder of the meeting from 1  
p.m., on October 3 until 5 p.m., on Octo-  
ber 4 will be open to the public for a  
discussion of issues in the field of drug  
abuse, orientation to the programs of the  
Institute, development of priorities for  
action by the Council, and administrative  
announcements.

Agenda items are subject to change as  
priorities dictate.

Substantive information, summaries of  
the meeting and rosters of the Council  
members can be obtained from contact  
person listed above.

Dated: September 2, 1977.

CAROLYN T. EVANS,  
*Committee Management Officer  
Alcohol, Drug Abuse, and  
Mental Health Administra-  
tion.*

[FR Doc.77-26220 Filed 9-8-77; 8:45 am]

**Health Resources Administration**

**TASK FORCE ON COST-SHARING OF THE  
COOPERATIVE HEALTH STATISTICS AD-  
VISORY COMMITTEE**

**Notice of Meeting**

In accordance with section 10(a)(2) of  
the Federal Advisory Committee Act  
(Public Law 92-463), announcement is  
made of the following National Advisory  
body scheduled to assemble during the  
month of September 1977:

**TASK FORCE ON COST-SHARING OF THE COOPERATIVE  
HEALTH STATISTICS ADVISORY COMMITTEE**

Date and Time: September 26-27, 1977, 12  
Noon.

Place: Conference Room 1-25, Center Build-  
ing, 3700 East-West Highway, Hyattsville,  
Md. 20782.

Type of meeting: Open the entire meeting.

Purpose: The Cooperative Health Statistics  
Advisory Committee felt that one of the  
key issues that should be explored and de-  
veloped by a Task Force was the matter of  
cost-sharing as it relates to the Cooperative  
System. As the funding of the Cooperative  
Health Statistics System continues and in-  
creases, it is essential that valid evaluation  
criteria and cost-sharing mechanisms be  
developed in support of this funding to in-

sure that each participating level of gov-  
ernment contributes its fair share to the  
System and that each of the seven com-  
ponents is funded adequately and on the  
basis of equitable formulae.

Agenda: Review the problems with imple-  
mentation of the Cost-Sharing formula in  
the vital statistics components of the Co-  
operative Health Statistics System.

The meeting is open to the public for  
observation and participation. Anyone  
wishing to participate, obtain a roster of  
members, or other relevant information,  
should contact Mr. James A. Smith, Na-  
tional Center for Health Statistics, Room  
2-12, Center Building, 3700 East-West  
Highway, Hyattsville, Maryland 20782.  
Telephone (301) 436-7122.

Agenda items are subject to change as  
priorities dictate.

Dated: September 6, 1977.

JAMES A. WALSH,  
*Associate Administrator for  
Operations and Management.*

[FR Doc.77-26382 Filed 9-8-77; 8:45 am]

**Health Services Administration**

**GRANTS FOR BLIND AND DISABLED  
CHILDREN**

**Availability of Information and Clearance  
for State Plan Submission**

Section 501(a) of Pub. L. 94-566  
amended Title XVI of the Social Security  
Act by revising section 1615. The revised  
section 1615(b) requires the establish-  
ment of criteria for the approval of State  
plans for services for blind and disabled  
children under the age of 16 years.

Blind or disabled persons under 16  
years of age receiving benefits under the  
Supplemental Security Income Program  
are to be referred to an identifiable unit  
of the State for certain enumerated ser-  
vices.

Under the revised section 1615(b), the  
State agency administering the State  
plan for Crippled Children's Services  
must establish an identifiable unit for  
serving blind or disabled children and  
must coordinate its activities with other  
agencies serving disabled children. An  
agency other than the agency adminis-  
tering the Crippled Children's Services  
plan may be designated by the Governor  
of a State as the responsible agency  
under this program if he finds that such  
other agency can carry out the function  
in a more efficient and effective manner.

The designated agency must submit a  
plan acceptable to the Secretary for car-  
rying out section 1615(b). That section  
directs the Secretary to prescribe, by re-  
gulation, criteria for approval of State  
plans for:

(a) Assuring appropriate counseling  
for disabled children so referred and  
their families;

(b) Establishment of individual service  
plans for such disabled children, and  
prompt referral to appropriate medical,  
educational, and social services;

(c) Monitoring to assure adherence to  
such service plan; and

(d) Provision for such disabled chil-  
dren who are 6 years of age and under,

or who have never attended public school and require preparation to take advantage of public educational services and of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

Regulations for establishing such criteria will be forthcoming. To facilitate the development of State plans for carrying out the program under section 1615, however, the Secretary has concluded that he should provide the States with preliminary information and guidance in developing such plans. Accordingly, notice is hereby given that preliminary information and guidance on developing applications for funds under section 1615 for blind and disabled children under the age of 16 may be obtained by writing to the DHEW Regional Health Administrator or to the Office of Maternal and Child Health, Bureau of Community Health Services, Room 7-15, 5600 Fishers Lane, Rockville, Md. 20857. All information and guidance so obtained is provided subject to the qualification that it reflects preliminary policies only and that subsequent changes contained in regulations may require appropriate revisions in a proposed State plan as a condition to approval of such plan by the Secretary.

The revised section 1615 authorizes \$30 million for implementation of this program. Under the statute, payments to a State or the District of Columbia may not exceed an amount which bears the same ratio to \$30 million as the under-age-7 population of such States or the District of Columbia bears to the total under-age-7 population of the 50 States and the District of Columbia. The Secretary is directed under section 1615 to publish the limitation applicable to each State for each fiscal year, based on the most recent satisfactory Department of Commerce data. The limits of the amounts available to each State and the District of Columbia for the last quarter of fiscal year 1977, appear at Appendix A to this notice.

Dated: September 1, 1977.

GEORGE I. LYTCHOTT,  
Administrator, Health Services  
Administration.

APPENDIX A—LIMITS OF AMOUNTS AVAILABLE TO STATES PURSUANT TO SECTION 1615(b) OF THE SOCIAL SECURITY ACT, AS AMENDED BY PUB. L. 94-566, REHABILITATION SERVICES FOR BLIND AND DISABLED CHILDREN, FISCAL YEAR 1977<sup>1</sup>

State:	Amount
Alabama	\$137,250
Alaska	18,000
Arizona	91,500
Arkansas	78,000
California	728,000
Colorado	93,000
Connecticut	96,000
Delaware	20,250

<sup>1</sup>Total amount available equal to one quarter of amount authorized.

State:	Amount
District of Columbia	23,250
Florida	265,500
Georgia	195,750
Hawaii	35,250
Idaho	33,750
Illinois	396,750
Indiana	195,000
Iowa	98,250
Kansas	75,750
Kentucky	126,750
Louisiana	155,250
Maine	37,500
Maryland	138,000
Massachusetts	180,000
Michigan	330,000
Minnesota	135,000
Mississippi	99,750
Missouri	160,500
Montana	27,000
Nebraska	54,000
Nevada	22,500
New Hampshire	28,500
New Jersey	237,000
New Mexico	48,000
New York	582,000
North Carolina	198,750
North Dakota	22,500
Ohio	378,500
Oklahoma	97,500
Oregon	77,250
Pennsylvania	372,000
Rhode Island	29,250
South Carolina	112,500
South Dakota	24,750
Tennessee	150,000
Texas	490,500
Utah	61,500
Vermont	17,250
Virginia	173,250
Washington	120,000
West Virginia	64,500
Wisconsin	156,000
Wyoming	15,000
Total	7,500,000

[FR Doc. 77-26298 Filed 9-8-77; 8:45 am]

Office of Education  
COMMUNITY EDUCATION ADVISORY  
COUNCIL  
Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: September 26 and 27, 1977.

ADDRESS: Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Paul Tremper, Office of Education, Department of Health, Education, and Welfare, Room 5623—ROB 3, 7th and D Streets SW., Washington, D.C. 20202; telephone 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory

Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public.

The meeting on September 26 will begin at 9 a.m. and end at 5 p.m. On September 27, the meeting will begin at 9 a.m. and end at 3:30 p.m.

The Community Education Advisory Council has been interested in the impact community education can have on problems of school violence, vandalism, and juvenile delinquency. During this meeting the Council will have the opportunity to examine components of community education which could be relevant to the prevention of juvenile delinquency. The Council has a special interest in promoting working relationships with other agencies, associations, and organizations in order to enhance the services provided through these programs and the Federal Community Education Program.

The proposed agenda includes:

- (1) Special reports;
- (2) Status of Advisory Council special projects;
- (3) Update on evaluation;
- (4) Discussion on juvenile delinquency;
- (5) Future programmatic directions of the Federal community education program;
- (6) Schedule of future meetings;
- (7) Report on community education grantees;
- (8) Update on study of State education agency community education programs;
- (9) Other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on September 6, 1977.

PAUL TREMPER,  
Acting Director,  
Community Education Program.

[FR Doc. 77-26780 Filed 9-8-77; 8:45 am]

NATIONAL ADVISORY COUNCIL ON  
BILINGUAL EDUCATION  
Meeting

AGENCY: Office of Education, HEW, National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: September 19, 1977, November 1 Report Committee Meeting, 9 a.m.-10 a.m. September 19, 1977, Non-Spanish Minority Languages Committee Meeting, 10 a.m.-11 a.m. September 19, 1977,

Budget Committee Meeting, 11 a.m.-12 noon. September 20, 1977, Business Meeting, 9 a.m.-4:30 p.m.

ADDRESS: NASA Auditorium, Room 6104 FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

**FOR FURTHER INFORMATION CONTACT:**

Dr. John C. Molina, Director, Office of Bilingual Education, Reporters' Bldg., Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On September 19, 1977, three of the council's standing committees will meet: November 1 Report—discussion on the August 22, 1977 meeting held in Washington, D.C. regarding the first draft of the Third Annual Report to Congress (9-10 a.m.); Non-Spanish Minority Languages—review of recommendations relating to issue paper on "Serving diverse language groups" (10 a.m.-11 a.m.); and Budget—update Report of FY 1977 expenditures (11 a.m.-12 noon); On-going council business and Office of Bilingual Education Report to the Council (1:30-4:30).

The proposed agenda for the Council meeting on September 20, 1977 includes: (1) Committee Reports; (2) FY 1978 Work Plans; (3) Review of second draft of the Report to Congress with contractor.

Records will be kept of all Council proceedings and shall be available for public inspection in Room 421, Reporters' Bldg., 300 7th Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on August 25, 1977.

JOHN C. MOLINA,  
Director,

Office of Bilingual Education.

[PR Doc.77-26285 Filed 9-8-77; 8:45 am]

**Statement of Organization, Functions and Delegations of Authority**

Part EE, Office of Education (formerly Part 2B), Section EE.10 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended to reflect the additions of Divisions in the Bureau of Student Financial Assistance which was created by the Secretary of Health, Education, and Welfare and the Commissioner of Education at 42 FR 13263 (March 9, 1977). A statement for an Office of Student Financial Assistance in each Region has been added in

order to conform with an order by the Secretary on July 19, 1977.

The specific changes are as follows:

(1) A new functional statement for the Bureau of Student Financial Assistance and the regional Offices of Student Financial Assistance is added as follows immediately after the statements for the Bureau of Education for the Handicapped and its Divisions:

**BUREAU OF STUDENT FINANCIAL ASSISTANCE (EEM)**

The Bureau of Student Financial Assistance formulates policy for and directs and coordinates activities of the Office of Education which provide financial assistance through grants, work and loan programs to students pursuing a postsecondary education. Programs include a grant program which provides for payment of entitlements to students enrolled or accepted for enrollment as undergraduates in eligible postsecondary educational institutions who are in financial need; programs which provide funds to eligible postsecondary educational institutions to provide grants to undergraduate students in exceptional financial need, to provide for part-time employment of needy students, and to establish and maintain loan funds to provide assistance to needy students; programs which provide for long-term low interest insured loans to students under which loans made by commercial and other lending institutions are insured or reinsured by the Federal government and for which payments are made to reduce interest costs for student borrowers, and special incentive allowances are paid to lenders; programs which provide for insured loans to students enrolled in health profession schools, under which loans made by commercial and other lending institutions are insured by the Federal government and payments are made for claims on insured loans; and programs which provide incentive grants to State agencies to provide financial assistance to students enrolled in postsecondary education and funds for training of institutional student financial aid officers. Provides direction to regional offices on regional program activities.

**Division of Certification and Program Review (EEMC)**. Develops and disseminates standards for institutional certification for student assistance programs; develops and disseminates operating procedures for internal program reviews based on standards. Resolves audit exceptions and initiates actions which may result in limitation, suspension and termination proceedings for institutional participation in student assistance programs. Provides direction to regional offices on certification and review activities.

**Division of Policy and Program Development (EEMF)**. Develops short and long-term issues for program planning purposes and formulates program requirements, including legislative initiatives and fund requirements for student assistance programs; directs develop-

ment of revised program policies and requirements; coordinates planning initiatives and provides authoritative advice on student assistance programs.

**Division of Program Operations (EEM-MP)**. Provides the operational support for student assistance programs including the processing of fund requests and the issuing of award documents and authorizations; fund reconciliation, payment of interest billings and special allowances for insured loans; payment of claims to lenders, collection of insurance premiums, payment of claims for death and disability and teacher cancellations. Provides direction to the regional offices on operational activities.

**Division of Quality Assurance (EEMQ)**. Determines the need for data and reports; prepares reports for management and planning purposes. Determines the impact of Bureau programs by analyzing statistical trends; analyzes program characteristics and recommends appropriate changes in policies or operating procedures. Reviews results of regional office operations to determine their effectiveness.

**Division of Systems Design and Development (EEMR)**. Designs and develops automated systems for student assistance programs to meet operational objectives, both short and long-term. Directs system implementation and monitors contracts for system performance. Establishes controls over, and designs forms for system operations. Determines and authorizes expenditures for system contracts. Provides direction and support to regional offices on systems.

**Division of Training and Dissemination (EEMT)**. Determines need for and provides for training of institutional student financial aid officers and staff, including development of training materials; develops and disseminates program brochures and program information to institutions, students, and the general public. Prepares program manuals for school and lender use in program administration. Provides direction to regional offices on training and dissemination activities.

**Division of Compliance (EEMU)**. Develops standards and procedures for compliance and investigative reviews of problem schools in conjunction with the Office of the Inspector General/HEW and the Department of Justice; conducts and coordinates investigations; provides direction to regional staff and maintains liaison with the Inspector General and Department of Justice including providing support for potential criminal and civil proceedings.

The title and statement for the Division of Guaranteed Student Loans in each of the ten Regional Offices are deleted in their entirety and are replaced by the title and statement for the Office of Student Financial Assistance as follows:

**Office of Student Financial Assistance (EEDIS-EEDXS)**. Conducts the field activities of the Bureau of Student Financial Assistance in accordance with direction and supervision from the Deputy

Commissioner for Student Financial Assistance, Regional student assistance activities include, but are not limited to: Institutional program reviews and compliance; examination of loans' claims and collections; review of institutional funding requests; operation of automated system; and dissemination of information to institutions, students and the general public.

The titles and statements for the Division of Basic and State Student Grants published at 39 FR 36368, October 9, 1974, the Division of Student Financial Aid published at 41 FR 7980, February 23, 1976, and the Office of Guaranteed Student Loans and its three Divisions, the Division of Operational Support, the Division of Program Development, and the Division of Program Systems published at 39 FR 26185, July 17, 1974, are deleted in their entirety.

Dated: September 1, 1977.

HALE CHAMPION,  
*Acting Secretary.*

[FR Doc.77-26288 Filed 9-8-77;8:45 am]

**National Institutes of Health**  
**BOARD OF SCIENTIFIC COUNSELORS**  
**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, October 28-29, 1977, National Institutes of Health, Building 4, Room 336.

This meeting will be open to the public from 9:30 a.m. to 4:30 p.m. on October 28 and from 9 to 11 a.m. on October 29. The open portion will be devoted to scientific presentations by various laboratories of NIAMDD intramural research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 4:30 p.m. to closing on October 28 and from 11 a.m. to adjournment on October 29 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, will provide summaries of the meeting and rosters of the committee members.

Dated: August 26, 1977.

SUZANNE L. FREMEAUX,  
*Committee Management Officer,*  
*National Institutes of Health.*

[FR Doc.77-26255 Filed 9-8-77;8:45 am]

**BOARD OF SCIENTIFIC COUNSELORS**

**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, October 24, 25, and 26, 1977, at Rocky Mountain Laboratory in Hamilton, Mont.

This meeting will be open to the public on October 24 and 25 from 8:00 a.m. until recess. During this open session, the permanent staff of the Rocky Mountain Laboratory will present and discuss their immediate, past, and present research activities.

In accordance with the provisions set forth in sections 552b(c)(6), title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on October 26 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted at the Rocky Mountain Laboratory of the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md., telephone 301-496-5717, will provide summaries of the meetings and rosters of the Board members.

Dr. Franklin A. Neva, Acting Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 116, telephone 301-496-2486, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.301, National Institutes of Health.)

Dated: September 2, 1977.

SUZANNE L. FREMEAUX,  
*Committee Management Officer,*  
*National Institutes of Health.*

[FR Doc.77-26253 Filed 9-8-77;8:45 am]

**BOARD OF SCIENTIFIC COUNSELORS**

**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, November 10 and 11, 1977, National Institutes of Health, Building 10, Room 7N214. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on November 10 and from 9:00 to 12 noon on November 11 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(c)(6), title 5, U.S. Code Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:30 p.m. to adjournment November 11 for the review, discussion,

and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A21, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH Building 10, Room 7N214, phone 301-496-2116.

Dated: September 2, 1977.

SUZANNE L. FREMEAUX,  
*Committee Management Officer,*  
*National Institutes of Health.*

[FR Doc.77-26250 Filed 9-8-77;8:45 am]

**BOARD OF SCIENTIFIC COUNSELORS,**  
**DIVISION OF CANCER TREATMENT**  
**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, October 24-25, 1977, Building 31C, Conference Room 6, National Institutes of Health. This meeting will be open to the public on October 24, 1977, from 8:30 a.m. to 3:15 p.m. The Board will make a site visit to the Frederick Cancer Research Center on October 25, 1977, convening at approximately 9:30 a.m., and this will be open to the public until adjournment at approximately 3:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 24, 1977, from 3:30 p.m. to 5:30 p.m., for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Vincent T. DeVita, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A-52, National Institutes of Health, Bethesda, Md. 20014 (301-496-4291) will furnish summaries of meetings, rosters of committee members, and substantive program information.

Dated: August 26, 1977.

SUZANNE L. FREMEAUX,  
*Committee Management Officer,*  
*National Institutes of Health.*

[FR Doc.77-26247 Filed 9-8-77;8:45 am]

**CLINICAL APPLICATIONS AND  
PREVENTION ADVISORY COMMITTEE**

**Amended Meeting**

Notice is hereby given of a change in the meeting date of the Clinical Applications and Prevention Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the FEDERAL REGISTER on August 2, 1977, 42 FR 39142.

The Committee was to have met for two days on September 26 and 27, 1977, and will now meet for only one day. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Monday, September 26, in Conference Room B119, Federal Building, Bethesda, Md.

Dated: August 29, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc. 77-26251 Filed 9-8-77; 8:45 am]

**NATIONAL DIABETES ADVISORY BOARD**

**Amended Meeting**

Notice is hereby given of a change in the meeting September 20, 1977, Conference Room 723A, South Portal Building, DHEW, Washington, D.C., of the Executive Committee of the National Diabetes Advisory Board, which was published in the FEDERAL REGISTER on August 2, 1977, 42 FR 39143.

This Committee was to have convened at 8:30 a.m., but has been changed to 1:30 to 5:00 p.m. on September 20. In addition, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1:30 to 2:30 p.m., for discussion of internal personnel matters disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc. 77-26244 Filed 9-8-77; 8:45 am]

**NATIONAL ADVISORY ALLERGY AND  
INFECTIOUS DISEASES COUNCIL**

**Amended Meeting**

Notice is hereby given of changes in the times of the "closed" and "open" portions of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on August 30, 1977 (42 FR 43669).

This meeting will be open to the public on October 12 from 9:00 a.m. until 12:30 p.m., and on October 13 from 9:00 a.m. until recess, and will be closed to the public on October 12 from 1:30 p.m. until

recess, and on October 14 from 9:00 a.m. until adjournment.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc. 77-26254 Filed 9-8-77; 8:45 am]

**NATIONAL ADVISORY RESEARCH  
RESOURCES COUNCIL**

**Amended Meeting**

Notice is hereby given of a change in the agenda in the meeting of the National Advisory Research Resources Council, Division of Research Resources, September 19-21, 1977, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42382).

The open portion of the meeting, scheduled for September 19, from 9:00 a.m. to recess, will include a status report and discussion of the Biotechnology Resources Program Work Group. The meeting will reconvene on September 19, at 7:30 p.m. to recess, in closed session, for the review and discussion of an application requesting support for the maintenance of a non-human primate blood grouping research resource, including the review of the administrative handling of the application. On September 20, the meeting will reconvene at 8:30 a.m. to recess, in closed session, for review, discussion, and evaluation of individual grant applications, and on September 21, the meeting will reconvene from 8:30 a.m. to adjournment, in closed session, for further review and discussion of an application requesting support for the maintenance of a non-human primate blood grouping research resource.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc. 77-26243 Filed 9-8-77; 8:45 am]

**NATIONAL COMMISSION ON DIGESTIVE  
DISEASES**

**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Commission on Digestive Diseases, October 10, 11, 12, 1977, at the times and locations listed below. The entire meeting will be open to the public. Attendance by the public will be limited to space available.

On October 10, from 7:00-10:00 p.m., at the Barclay Hotel, Hamilton Suite, 111 E. 48th Street, New York, N.Y., the Commission will have a business and planning meeting. On October 11, from 8:30 to 10:00 a.m., in Room 109, Memorial Sloan Kettering Cancer Center, 1275

York Avenue, New York City, the Commission will continue the business and planning meeting; from 10:00 a.m. to 6:00 p.m., in Room 107, the Commission will hear public testimony. On October 12, from 8:30-10:00 a.m., Room C677, College of Medicine and Dentistry of New Jersey, 100 Bergen Street, Newark, N.J., the Commission will hold a business meeting; from 10:00 a.m. to 6:00 p.m., Room B515, the Commission will hear public testimony.

Any member of the public who wishes to appear before the Commission between 10:00 a.m. and 6:00 p.m., October 11 and 12 shall file a written statement or detailed summary of his remarks with the Commission before October 1, 1977. Statements or summaries shall be sent to Dr. Thomas P. Vogl, Executive Secretary, National Commission on Digestive Diseases, Room 6C16, the Federal Building, 7550 Wisconsin Avenue, Bethesda, Md. 20014. The time allotted to each participant will be determined by the Commission Chairman based upon the number of individuals who request an opportunity to make presentations.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, will provide summaries of the Commission meeting.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc. 77-26256 Filed 9-8-77; 8:45 am]

**NATIONAL HEART, LUNG, AND BLOOD  
INSTITUTE**

**Meeting**

In compliance with the intent of Congress, as stated in the Report of the House Committee on Appropriations (95th Congress), to assess the state-of-the-art in Cooley's anemia research and treatment, the National Heart, Lung, and Blood Institute is holding a meeting with pediatric hematologists; basic scientists; epidemiologists; and family health, public health, and nurse practitioners who have had experience with Cooley's anemia patients and their families. The participants will also consider the epidemiology of the disease; the public and private resources for the diagnosis of, screening for, and research on Cooley's anemia; and the most fruitful areas for future research.

The entire meeting is open to the public from 9:30 a.m. to adjournment on Monday, October 3, 1977, in Building 31, Conference Room 4, National Institutes of Health, Bethesda, Md. 20014. Individuals interested in obtaining further in-

formation about this meeting should contact Mr. John B. Lyons, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, Bethesda, Md. 20014, phone 301-496-3533. Attendance will be limited to the space available.

Dated: September 2, 1977.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc.77-26252 Filed 9-8-77; 8:45 am]

#### NEUROLOGICAL DISORDERS PROGRAM- PROJECT REVIEW A COMMITTEE

##### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institutes of Health, October 20-22, 1977, in the Chancery Room A, Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, D.C. 20036.

The meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on October 20th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 21st, from 8:30 a.m. to adjournment on October 22nd, for the review, discussion and evaluation of individual initial pending and renewal grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, Md. 20014, 301-496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc.77-26257 Filed 9-8-77; 8:45 am]

#### NEUROLOGICAL DISORDERS PROGRAM- PROJECT REVIEW B COMMITTEE

##### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, October 20-22, 1977, in the

Chancery Room B, Embassy Row Hotel, 2015 Massachusetts Avenue, Washington, D.C. 20036.

This meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on October 20th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 21st, from 8:30 a.m. to adjournment on October 22nd, for the review, discussion and evaluation of individual initial pending and renewal grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert N. Hinkel, Acting Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John W. Diggs, Executive Secretary, Federal Building, Room 9C10B Bethesda, Md. 20014 (301-496-9223), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc.77-26258 Filed 9-8-77; 8:45 am]

#### REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

##### Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708) will furnish summaries of the

meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

#### CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Dates: October 6-7, 1977; 8:30 a.m.  
Place: Landow Building Room C418, 7910 Woodmont Avenue, Bethesda, Md. 20014.

Times: Open: October 6, 8:30 a.m.-9:00 a.m.  
Open: October 7, 8:30 a.m.-9:00 a.m.

Agenda/open portion: To discuss program information. Closed: October 6, 9:00 a.m.-9:00 p.m. Closed: October 7, 9:00 a.m.-adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. Carl E. Smith. Address: Landow Building, Room C-841, National Institutes of Health. Phone: 301-496-5471.

(Catalog of Federal domestic assistance No. 13.393, National Institutes of Health.)

#### NATIONAL PROSTATIC CANCER PROJECT WORK- ING CADRE

Dates: October 12, 1977; 8:30 a.m.

Place: Research Study Center, Roswell Park Memorial Institute, Buffalo, N.Y.

Times: Open: October 12, 8:30 a.m.-9:00 a.m.  
Closed: October 12, 9:00 a.m.-adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Andrew Chiarodo. Address: Westwood Building, Room 853, National Institutes of Health. Phone 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395, National Institutes of Health.)

#### CANCER CONTROL TREATMENT, REHABILITATION, AND CONTINUING CARE REVIEW COMMITTEE

Dates: October 20-21, 1977; 8:30 a.m.

Place: Building 31C, Conference Room 8, National Institutes of Health.

Times: Open: October 20, 8:30 a.m.-3:30 p.m.  
Open: October 21, 8:30 a.m.-adjournment.

Closed: October 20, 3:30 p.m.-recess.  
Closure reason: To review research contract proposals.

Executive secretary: Dr. Carlos E. Caban. Address: Blair Building, Room 7A07, National Institutes of Health. Phone: 301-427-7945.

(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

#### COMMITTEE ON CANCER IMMUNODIAGNOSIS

Dates: October 25, 1977; 1:00 p.m.

Place: Building 10, Conference Room 4B14, National Institutes of Health.

Times: Open: October 25, 1:00 p.m.-1:30 p.m.  
Closed: October 25, 1:30 p.m.-adjournment.

Closure reason: To review research contract proposals.  
Executive secretary: Mrs. Judith M. Whalen. Address: Building 10, Room 4B17, National Institutes of Health. Phone: 301-496-1791.

(Catalog of Federal Domestic Assistance No. 13.394, National Institutes of Health.)

#### COMMITTEE ON CANCER IMMUNOBIOLOGY

Dates: October 27-28, 1977; 7:00 p.m.

Place: Building 1, Wilson Hall, National Institutes of Health.

Times: Open: October 27, 7:00 p.m.-7:30 p.m.  
Open: October 28, 8:30 a.m.-11:30 p.m.

Agenda/open portion: To discuss immunobiology program review and planning closed: October 27, 7:30 p.m.-11:30 p.m.

Closure reason: To review research contract proposals

Executive secretary: Mrs. Judith M. Whalen.  
Address: Building 10, Room 4B17, National Institutes of Health. Phone: 301-496-1791.  
(Catalog of Federal Domestic Assistance No. 13.396, National Institutes of Health.)

**CANCER CONTROL GRANT REVIEW COMMITTEE**

Dates: October 31, 1977; 8:30 a.m.

Place: Building 31C, Conference Room 9, National Institutes of Health.

Times: Open: October 31, 8:30 a.m.-9:00 a.m.  
Closed: October 31, 9:00 a.m.-5:00 p.m.

Closure reason: To review research grant applications.

Executive secretary: Dr. M. Wayne Hurst.  
Address: Blair Building, Room 7A07, National Institutes of Health. Phone: 301-427-7945.  
(Catalog of Federal Domestic Assistance No. 13.399, National Institutes of Health.)

Dated: August 26, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc.77-26248 Filed 9-8-77; 8:45 am]

**REVIEW OF GRANT APPLICATIONS**

**Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings and rosters of committee members of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

**CLINICAL CANCER EDUCATION COMMITTEE**

Dates: October 5-6, 1977; 8:30 a.m.

Place: Building 31C, Conference Room 7 (October 5), Building 31C, Conference Room 8 (October 6).

Times: Open: October 5, 8:30 a.m.-9:30 a.m.

Closed: October 5, 9:30 a.m.-5:00 p.m.

Closure reason: To review research grant applications.

Executive secretary: Dr. Margaret H. Edwards. Address: Westwood Building, Room 10A18, National Institutes of Health. Phone: 301-496-7761.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

**SUBCOMMITTEE ON CANCER ETIOLOGY AND PREVENTION OF THE CANCER RESEARCH MANPOWER REVIEW COMMITTEE**

Dates: October 6-7, 1977; 9:00 a.m.-adjournment.

Place: Building 31C, Conference Room 9, National Institutes of Health.

Times: Closed for the entire meeting.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Building, Room 10A15, National Institutes of Health. Phone: 301-496-7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

**SUBCOMMITTEE ON DETECTION, DIAGNOSIS, TREATMENT AND RESTORATIVE CARE OF THE CANCER RESEARCH MANPOWER REVIEW COMMITTEE**

Dates: October 6-7, 1977; 9:00 a.m.-adjournment.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Closed for the entire meeting.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Bldg., Rm. 10A15, National Institutes of Health. Phone: 301-496-7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

**CANCER RESEARCH MANPOWER REVIEW COMMITTEE**

Dates: October 8, 1977; 9:00 a.m.

Dates: October 8, 1977; 9:00 a.m.

Place: Building 31C, Conference Room 6, National Institutes of Health.

Times: Open: October 8, 9:00 a.m.-9:30 a.m.

Closed: October 8, 9:30 a.m.-adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Building, Rm. 10A15, National Institutes of Health. Phone: 301-496-7803.

(Catalog of Federal Domestic Assistance No. 13.398, National Institutes of Health.)

Dated: August 29, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc.77-26249 Filed 9-8-77; 8:45 am]

**SICKLE CELL DISEASE ADVISORY COMMITTEE**

**Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, Na-

tional Heart, Lung, and Blood Institute, September 29 and 30, 1977. The meeting will be held in Conference Room 9, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20014. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on both days, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, 301-496-4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, Building 31, Room 4A29, 301-496-6931, will furnish substantive program information.

Dated: September 2, 1977.

SUZANNE L. FREMEAU,  
*Committee Management Officer,  
National Institutes of Health.*

[FR Doc.77-26245 Filed 9-8-77; 8:45 am]

**STUDY SECTIONS**

**Meetings**

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for October and November 1977, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Md. 20014, telephone area code 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each Executive Secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the Executive Secretary to confirm the exact meeting time.

OCTOBER TO NOVEMBER

Study section	1977 meetings	Time	Location
Allergy and Immunology, Dr. Morton Reitman, room 320, telephone 301-496-7389.	Nov. 2 to 5	8:45 a.m.	Holiday Inn, Chevy Chase, Md.
Applied Physiology and Orthopedics, Mrs. Ileen E. Stewart, room 318, telephone 301-496-7581.	Nov. 19 to 23	8:30 a.m.	Room 8, Bldg. 31, Bethesda, Md.
Bacteriology and Mycology, Dr. Milton Gordon, room 334, telephone 301-496-7340.	Oct. 27 to 29	8:30 a.m.	Holiday Inn, Bethesda, Md.
Bioanalytical and Metalbiochemistry (formerly; Medicinal Chemistry B), Mr. Richard P. Brattel, room 410, telephone 301-496-7733.	Nov. 19 to 22	9 a.m.	Embassy Row Hotel, Washington, D.C.
Biochemistry, Dr. Adolphus P. Toliver, room 350, telephone 301-496-7516.	Oct. 28 to 29	9 a.m.	Do.
Biophysics and Biophysical Chemistry A, Dr. Irvin Fuhr, room 236, telephone 301-496-7060.	Nov. 4 to 6	9 a.m.	Mayflower Hotel, Washington, D.C.
Biophysics and Biophysical Chemistry B, Dr. John B. Wolf, room 226, telephone 301-496-7050.	Oct. 27 to 29	8:30 a.m.	Linden Hill Hotel, Bethesda, Md.
Cardiovascular and Pulmonary, Dr. Vincent J. Catron, room 339, telephone 301-496-7501.	Nov. 1 to 5	8:30 a.m.	Holiday Inn, Georgetown, D.C.
Cardiovascular and Renal, Dr. Floyd O. Atchley, room 339, telephone 301-496-7501.	Nov. 9 to 12	9 a.m.	Holiday Inn, Bethesda, Md.
Cell Biology, Dr. Gerald Greenhouse, room 2A-04, telephone 301-496-7320.	Oct. 29 to 29	8:30 a.m.	Holiday Inn, Georgetown, D.C.
Communicative Sciences, Mr. Frederick J. Gutter, room 321, telephone 301-496-7590.	Oct. 28 to 28	8:30 a.m.	Holiday Inn, Bethesda, Md.
Developmental Behavioral Sciences, Dr. Bertie H. H. Wolf, room 232, telephone 301-496-7311.	Nov. 16 to 18	8:30 a.m.	Bellevue Hotel, San Francisco, Calif.
Endocrinology, Mr. Morris M. Graff, room 333, telephone 301-496-7346.	Oct. 17 to 20	7 p.m.	Sheraton Inn, Silver Spring, Md.
Epidemiology and Disease Control, Mr. Glenn G. Lanson, Jr., room 205, telephone 301-496-7246.	Oct. 26 to 28	8:30 a.m.	Holiday Inn, Georgetown, D.C.
Experimental Psychology, Dr. A. Keith Murray, room 229, telephone 301-496-7058.	Nov. 2 to 4	9 a.m.	Ambassador Hotel, Los Angeles, Calif.
Experimental Therapeutics, Dr. Anne R. Botrke, room 319, telephone 301-496-7829.	Oct. 26 to 29	1 p.m.	Kenwood Country Club, Bethesda, Md.
Experimental Virology, Dr. Eugene Zebowitz, room 206, telephone 301-496-7474.	Oct. 30 to Nov. 2	2 p.m.	Room 8, Bldg. 31, Bethesda, Md.
General Medicine A, Dr. Harold M. Davidson, room 354, telephone 301-496-7797.	Nov. 7 to 9	8:30 a.m.	Room 10, Bldg. 31, Bethesda, Md.
General Medicine B, Dr. William E. Davis, Jr., room 322, telephone 301-496-7230.	Nov. 16 to 19	9 a.m.	Shoreham Americana, Washington, D.C.
Genetics, Dr. David J. Remondini, room 349, telephone 301-496-7271.	Nov. 2 to 5	9 a.m.	Room 8, Bldg. 31, Bethesda, Md.
Hematology, Dr. Clark K. Lum, room 355, telephone 301-496-7508.	Oct. 20 to 22	9 a.m.	Linden Hill Hotel, Bethesda, Md.
Human Embryology and Development, Dr. Samuel Moss, room 221, telephone 301-496-7597.	Oct. 26 to 29	9 a.m.	Do.
Immunobiology, Dr. James H. Turner, room 233, telephone 301-496-7780.	Nov. 2 to 4	8:30 a.m.	Embassy Row Hotel, Washington, D.C.
Immunological Sciences, Dr. Lottie Kornfeld, room 233, Telephone 301-496-7170.	Nov. 6 to 9	7 p.m.	Sheraton Inn, Silver Spring, Md.
Medicinal Chemistry A, Dr. Asher A. Hyatt, room 222, telephone 301-496-7286.	Oct. 27 to 30	9 a.m.	Ramada Inn, Rosslyn, Va.
Metabolism, Dr. Robert M. Leonard, room 218, telephone 301-496-7130.	Nov. 9 to 12	8:30 a.m.	Room 4, Bldg. 31, Bethesda, Md.
Microbial Chemistry, Dr. Gustave Silver, room 357, telephone 301-496-7130.	Nov. 3 to 5	8:30 a.m.	Room 9, Bldg. 31, Bethesda, Md.
Molecular Biology, Dr. Donald T. Disque, room 328, telephone 301-496-7820.	do.	8:30 a.m.	Holiday Inn, Bethesda, Md.
Molecular Cytology, Dr. Wendell H. Kyle, room 222, telephone 301-496-7149.	Oct. 27 to 29	8:30 a.m.	Room 8, Bldg. 31, Bethesda, Md.
Neurological Sciences, Dr. Edwin M. Bartos, room 207, telephone 301-496-7000.	Nov. 3 to 5	8:30 a.m.	Los Angeles Hilton, Los Angeles, Calif.
Neurology A, Dr. William E. Morris, room 326, telephone 301-496-7000.	do.	9 a.m.	Do.
Neurology B, Dr. Willard L. McFarland, room 2A-10, telephone 301-496-7122.	Oct. 27 to 29	8:30 a.m.	Hyatt Regency Hotel, Washington, D.C.
Nutrition, Dr. John R. Schaubert, room 204, telephone 301-496-7178.	Nov. 9 to 11	8:30 a.m.	Room 9, Bldg. 31, Chevy Chase, Md.
Oral Biology & Medicine, Dr. Thomas M. Tarpley, Jr., room 325, telephone 301-496-7818.	Nov. 16 to 19	9 a.m.	Shoreham Americana, Washington, D.C.
Pathobiological Chemistry, Dr. Ellen G. Archer, room 206, telephone 301-496-7432.	Oct. 26 to 29	8:30 a.m.	Room 7, Bldg. 31, Bethesda, Md.
Pathology A, Dr. William B. Savchuck, room 337, telephone 301-496-7395.	Oct. 25 to 28	5 p.m.	Sheraton Inn, Silver Spring, Md.
Pathology B, Mrs. Barbara S. Bynum, room 352, telephone 301-496-7244.	Oct. 28 to 27	8:30 a.m.	Holiday Inn, Chevy Chase, Md.
Pharmacology, Dr. Joseph A. Kaber, room 334, telephone 301-496-7408.	Oct. 18 to 20	8:30 a.m.	Holiday Inn, Bethesda, Md.
Physiological Chemistry, Dr. Robert L. Ingram, room 338, telephone 301-496-7837.	Nov. 3 to 5	9 a.m.	Embassy Row Hotel, Washington, D.C.
Physiology, Dr. Clara K. Hamilton, room 209, telephone 301-496-7878.	do.	9 a.m.	Room 4, Bldg. 31, Bethesda, Md.
Population Research, Miss Carol A. Campbell, room 210, telephone 301-496-7130.	do.	9 a.m.	Mayflower Hotel, Washington, D.C.
Radiation, Dr. Robert L. Straube, room A-10, telephone 301-496-7073.	Oct. 25 to 27	9 a.m.	Holiday Inn, Arlington, Va.
Reproductive Biology, Dr. Dharam S. Dhindsa, room 307, telephone 301-496-7318.	Nov. 1 to 4	8:30 a.m.	Holiday Inn, Bethesda, Md.
Surgery, Anesthesiology and Trauma, Dr. Keith Krumer, room 336, telephone 301-496-7771.	Oct. 27 and 28	8:30 a.m.	Holiday Inn, Arlington, Va.
Surgery and Bioengineering, Dr. Joe W. Atkinson, room 348, telephone 301-496-7506.	do.	8:30 a.m.	Do.
Toxicology, Dr. Rob S. McCutcheon, room 226, telephone 301-496-7570.	Oct. 27 to 29	8 a.m.	Holiday Inn, Bethesda, Md.
Tropical Medicine and Parasitology, Dr. Betty June Myers, room 319, telephone 301-496-7494.	do.	8:30 a.m.	Holiday Inn, Chevy Chase, Md.
Virology, Dr. Claire H. Winestock, room 309, telephone 301-496-7128.	do.	8:30 a.m.	Room 6, Bldg. 31, Bethesda, Md.
Visual Sciences A, Dr. Orvil E. A. Bolduan, room 2A-06, telephone 301-496-7180.	Oct. 31 to Nov. 4	9 a.m.	Hilton Hotel, Los Angeles, Calif.
Visual Sciences B, Dr. Luigi Giacomelli, room 325, telephone 301-496-7251.	Nov. 3 to 6	9 a.m.	Anaheim Hyatt House, Anaheim, Calif.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393-13.396, 13.836-13.844, 13.846-13.871, 13.876, National Institutes of Health, HEW.)

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc. 77-26246 Filed 9-8-77; 8:45 am]

### Public Health Service

#### QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

##### Notice

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of July 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

##### LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. Group Health Plan of New Jersey, Inc. (Staff model, see section 1310(b)(1) of the Public Health Service Act), 501-70th Street, Guttenberg, N.J. 07093. Service area as follows:

Cliffside PK., 07010.	Union City, 07087.
Edgewater, 07020.	Weehawken, 07087.
Fairview, 07020.	Guttenberg, 07093.
Fort Lee, 07024.	West New York, 07093.
East Newark, 07024.	Secaucus, 07094.
Harrison, 07024.	Jersey City, 07302.
Hoboken, 07030.	07304, 07306, 07307.
Kearny, 07032.	Teterboro, 07008.
No. Arlington, 07032.	Little Ferry, 07643.
No. Bergen, 07047.	Palisades Park, 07650.
Lyndhurst, 07071.	Carlstadt, 07072.
E. Rutherford, 07073.	Ridgefield, 07657.
Moonachie, 07074.	

Date of qualification: July 1, 1977. (Achieved preoperational status on June 27, 1977, see 42 FR 38649-50, July 29, 1977.)

(Transitionally Qualified Health Maintenance Organizations: 42 CFR § 110.603(b))

1. American Health Plan, Inc. (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1701 Northeast 164th Street, North Miami Beach, Fla. 33162. Service area: Dade and Broward Counties in the State of Florida. Date of qualification: July 29, 1977.

2. Family Health Program, Inc. (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 2925 No. Palo Verde Avenue, Long Beach, Calif. 90815. Service area as follows: Orange County, Calif. and that portion of Los Angeles County, Calif. South of Firestone Boulevard (Manchester Boulevard). Salt Lake County and Davis County, Utah, and those portions of Utah, Tooele and Summit Counties, Utah within a thirty (30) mile radius of the FHP/Utah Medical Centers. The Island of Guam.

Zip codes in the service area are as follows:

##### Los Angeles County, California

90059	90061	90220	90221	90222	90240	90241
90242	90245	90247	90248	90249	90262	90280
90501	90502	90503	90504	90505	90506	90602
90603	90604	90605	90631	90638	90650	90670
90701	90706	90710	90712	90713	90715	90716
90717	90723	90731	90732	90744	90745	90748
90747	90748	90749	90801	90802	90803	90804
90805	90806	90807	90808	90810	90812	90813
90814	90815	91320	91360			

##### Orange County, California

90620	90621	90622	90623	90630	90631	90680
90720	90740	90742	90743	92621	92625	92626
92627	92630	92631	92632	92633	92635	92638
92640	92641	92643	92644	92645	92646	92647
92648	92649	92650	92651	92653	92655	92660
92661	92662	92663	92664	92665	92666	92667
92668	92669	92670	92675	92677	92680	92683
92686	92701	92703	92704	92705	92706	92707
92708	92709	92713	92714	92715	92716	92801
92802	92803	92804	92805	92806	92807	

##### Salt Lake, Davis, Utah, Tooele, and Summit Counties Utah<sup>2</sup>

84003	84006	84010	84014	84020	84025	84032
84043	84044	84047	84054	84057	84060	84062
84070	84084	84087	84101	84102	84103	84104
84105	84106	84107	84108	84109	84111	84112
84113	84114	84115	84116	84117	84118	84119
84120	84121					

Date of qualification: July 29, 1977.

3. California Medical Group Health Plan, Inc., (Staff model, see section 1310(b)(1) of the Public Health Service Act), 1880 Century Park East, Suite 1500, Los Angeles, Calif. 90067. Service area: The zip codes included in the area are as follows:

##### Los Angeles County California

90001	90002	90003	90004	90005	90006	90007
90008	90010	90011	90012	90013	90014	90015
90016	90017	90018	90019	90020	90021	90022
90024	90025	90026	90027	90028	90029	90031
90032	90033	90034	90035	90036	90037	90038
90039	90040	90041	90042	90043	90044	90045
90046	90047	90048	90049	90056	90057	90058
90059	90061	90062	90063	90064	90065	90066
90067	90068	90069	90071	90201	90210	90211
90212	90220	90221	90222	90223	90240	90241
90242	90245	90247	90248	90249	90250	90254
90255	90260	90262	90265	90266	90270	90272
90274	90277	90278	90280	90290	90291	90301
90302	90303	90304	90305	90401	90402	90403
90404	90405	90501	90502	90503	90504	90505
90506	90601	90602	90603	90604	90605	90606
90638	90640	90650	90660	90670	90701	90706
90710	90712	90713	90715	90716	90717	90723
90731	90732	90744	90745	90746	90747	90801
90802	90803	90804	90805	90806	90807	90808
90810	90812	90813	90814	90815	90840	91001
91006	91010	91011				
91016	91020	91024	91030	91040	91042	91046
91101	91103	91104	91105	91106	91107	91108
91201	91202	91203	91204	91205	91206	91207
91208	91214	91301	91302	91303	91304	91306
91307	91310	91311	91316	91321	91324	91331
91335	91340	91342	91343	91344	91350	91351
91352	91355	91364	91401	91402	91403	91405
91406	91411	91423	91436	91501	91502	91504
91505	91506	91601	91602	91604	91605	91606
91607	91608	91702	91706	91711	91722	91723
91724	91731	91732	91733	91738	91740	91744
91745	91746	91750	91754	91765	91766	91767
91768	91770	91773	91775	91776	91780	91789
91790	91791	91792	91801	91803	93510	93532
93534	93543	93544	93550	93553	93563	

<sup>2</sup> Several zip code areas may straddle the 30 mile radius from Family Health Plan medical centers. Individuals in the areas immediately outside the limit may enroll but must use the Family Health Plan physicians and the facilities of the medical centers.

##### Orange County, California

90620	90621	90623	90630	90631	90720	90740
90742	90743	92621	92624	92625	92626	92627
92629	92630	92631	92632	92633	92640	92641
92643	92644	92645	92646	92647	92648	92649
92650	92651	92653	92655	92660	92661	92662
92664	92665	92666	92667	92668	92669	92670
92672	92675	92676	92677	92678	92680	92683
92686	92687	92701	92703	92704	92705	92706
92707	92708	92709	92801	92802	92804	92805
92806	92807					

##### Riverside County, California<sup>2</sup>

91720	91752	91760	92330	92370	92388	92501
92503	92504	92505	92506	92507	92508	92509

##### Santa Barbara County, California

93013	93017	93067	93101	93103	93105	93108
93109	93110	93111	93427	93441	93460	93463

##### San Bernardino County California

91701	91710	91730	91739	91743	91761	91762
91763	91764	91785	92316	92318	92324	92335
92346	92354	92369	92373	92376	92401	92404
92405	92407	92408	92409	92410	92411	

##### San Diego County California

92001	92002	92007	92008	92010	92011	92014
92017	92020	92021	92024	92025	92027	92032
92035	92037	92040	92041	92045	92050	92064
92065	92067	92069	92071	92073	92075	92077
92078	92101	92102	92103	92104	92105	92106
92107	92108	92109	92110	92111	92113	92114
92115	92116	92117	92118	92119	92120	92121
92122	92123	92124	92125	92226	92127	92128
92129	92131	92133	92135	92137	92139	92140
92145	92154	92155	92162			

##### Ventura County California

91320	91360	91361	91362	93010	93015	93021
93040	93042	93063	93065			

Date of qualification: July 19, 1977.

4. Group Health Association, Inc., (Staff model, see section 1310(b)(1) of the Public Health Service Act) 2121 Pennsylvania Avenue NW, Washington, D.C. 20037. Service area: The geographical area encompassing the District of Columbia and the counties of Howard, Montgomery, and Prince Georges in the State of Maryland and the counties of Arlington, Loudoun, Prince William, and Fairfax, and all incorporated communities therein including, but not limited to, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia.

Date of qualification: July 18, 1977.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: August 30, 1977.

WILLIAM B. MUNIER,  
Director,

Office of Quality Standards.

[FR Doc. 77-26207 Filed 9-8-77; 8:45 am]

<sup>2</sup> Zip codes include a 30 mile radius of the health center.

**Office of the Secretary**  
**NATIONAL INSTITUTE OF EDUCATION**  
 Statement of Organization, Functions, and  
 Delegations of Authority

Part E of the Statement of Organization, Functions, and Delegations of Authority for the Education Division of the Department of Health, Education, and Welfare is amended to revise Chapter EN, "National Institute of Education", published in the FEDERAL REGISTER (40 FR 22019, May 20, 1975) and amended (40 FR 37071, August 25, 1975, and 42 FR 2544, January 12, 1977) to provide for a new Order of Succession by making the Deputy Director for Management the Acting Director in the absence of, or vacancy in the Office of, the Director and the Deputy Director.

Section EN.40, Order of Succession, is amended to read as follows: In the absence of the Director or in the event that there is a vacancy in that office, the Deputy Director shall serve as the Acting Director. In the event that both the Director and the Deputy Director are absent, or there is a vacancy in both offices, the following shall serve as Acting Director in the order indicated: Deputy Director for Management; Associate Director for Planning, Budget and Program Analysis; Associate Director for Administration and Management.

Dated: August 31, 1977.

**JOHN YOUNG,**  
*Assistant Secretary for  
 Budget and Management.*

[FR Doc.77-26287 Filed 9-8-77; 8:45 am]

**PRESIDENT'S COMMITTEE ON MENTAL  
 RETARDATION**  
 Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee in cooperation with the National Association for Retarded Citizens and other national, public and private agencies will meet on Tuesday, September 27, 1977, 6 p.m. to 9:30 p.m., Wednesday, September 28, 1977, 9 a.m. to 9:30 p.m., and Thursday, September 29, 1977, 8:30 a.m. to 4 p.m., at the Airlie House, Warrenton, Va. At the meeting the Committee will discuss legal rights and issues as they relate to retarded citizens obtaining a status of full citizenship.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Fred J. Krause, Executive Director, President's

Committee on Mental Retardation, Room 2614, ROB No. 3, 7th & D Streets SW., Washington, D.C. 20201, telephone: 202-245-7634.

Dated: September 1, 1977.

**FRED J. KRAUSE,**  
*Executive Director, President's  
 Committee on Mental Retardation.*  
 [FR Doc.77-26261 Filed 9-8-77; 8:45 am]

**Health Services Administration**  
**MIGRANT HEALTH ADVISORY COUNCIL**  
 Rechartering of a Statutorily Established  
 Council

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Health Services Administration announces the rechartering by the Secretary, HEW, on July 31, 1977, of the National Advisory Council on Migrant Health. The Council has been rechartered only through October 31, 1977.

Dated: August 18, 1977.

**JOHN H. KELSO,**  
*Acting Administrator.*  
 [FR Doc.77-25909 Filed 9-8-77; 8:45 am]

**DEPARTMENT OF HOUSING  
 URBAN DEVELOPMENT**

**Office of the Secretary**  
 [Docket No. N-77-506]

**PRIVACY ACT OF 1974**

**Deletion of Systems of Records**

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Deletion of Systems of Records.

**SUMMARY:** Notice is given that nine Privacy Act Systems of Records are deleted.

**EFFECTIVE DATE:** September 8, 1977.

**ADDRESS:** Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh St. SW., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Harold Rosenthal, Departmental Privacy Officer, Room 3176, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** On November 16, 1976, the Department published in the FEDERAL REGISTER (41 FR 50599) an annual notice of systems of records as required by the Privacy Act of 1974. This notice deletes the systems of records listed below since, with the exception of HUD/DEPT-33 which will be covered by HUD/DEPT-34 (Pay and Leave Records of Employees), the systems do not contain records with personal data that is retrievable by name or other individual personal identifier.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Rules Docket Clerk address set forth above.

**HUD/DEPT-13**

**System name:**

Cost Analyses of Projects.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

**HUD/DEPT-30**

**System name:**

Mobile Home Park Inspection.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records on mobile home park inspections.

**HUD/DEPT-33**

**System name:**

Multi-family Project Case Files.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

**HUD/DEPT-36**

**System name:**

Personnel Timekeeping System.

**Reason:**

This system is being covered by the Pay and Leave Records of Employees system, numbered HUD/DEPT-34.

**HUD/DEPT-39**

**System name:**

Project Files.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about HUD insured projects, corporations, businesses, and firms.

**HUD/DEPT-50**

**System name:**

Freedom of Information Act Files.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The records do not contain information of a personal nature which is retrievable by name or other individual personal identifier.

**HUD/FIA-2**

**System name:**

Flood Insurance Files.

**Reason:**

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records relating to community participation in the Flood Insurance Program.

## HUD/OILSR-1

## System name:

Interstate Land Sales Registration.  
Reason:

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about developers, corporations, and subdivisions in interstate land sales.

## HUD/OILSR-2

## System name:

Interstate Land Sales Registration Investigations.  
Reason:

Records contained in this system have been determined not to be subject to the Privacy Act. The system contains records about investigations of violations of the Interstate Land Sales Full Disclosure Act and the records are retrieved by name of subdivision or by name of subdivision developer.

(AUTHORITY: (5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d))) )

NOTE.—It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., August 26, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary of

Housing and Urban Development.

[FR Doc.77-26269 Filed 9-8-77;8:45 am]

## DEPARTMENT OF JUSTICE

## UNITED STATES COMMITTEE ON SELECTION OF FEDERAL JUDICIAL OFFICERS

## Meeting

The first and second scheduled meetings of the nominating panel for the United States Committee on Selection of Federal Judicial Officers is as follows:

(1) The first meeting will be held on Friday, September 16, 1977, at 9:30 a.m., in the United States Court of Claims, 717 Madison Place NW., Washington, D.C. The morning session will be concerned with the discussion of the procedural and substantive work of the Court of Claims and will be open to the public. The afternoon session will be devoted to procedures to be adopted by the Committee to accomplish its work and a discussion of the candidates. The afternoon session will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c) (6).)

(2) The second meeting will begin on Monday, October 10, 1977, at 9:30 a.m., in the United States Court of Claims, 717 Madison Place NW., Washington, D.C., and will continue, if necessary, through Wednesday, October 12, 1977. The purpose of this meeting will be to conduct interviews of applicants and to determine the recommendations to be made to the President. This meeting will be closed to the public pursuant to Pub. L. 92-463,

Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c) (6).)

JOSEPH A. SANCHES,  
Advisory Committee  
Management Officer.

AUGUST 30, 1977.

[FR Doc.77-26209 Filed 9-8-77;8:45 am]

## DEPARTMENT OF LABOR

## Bureau of Labor Statistics

## BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

## Meeting

The BRAC Committee on Manpower and Employment will meet at 1:30 p.m., September 29, 1977, at the General Accounting Office Building, 441 G Street NW., Room 4454A, Washington, D.C. The agenda for the meeting is as follows:

1. Local Area Unemployment Statistics.
2. Job Vacancies.
3. National Occupational Information Coordinating Committee (NOICC).
4. Collection of weekly earnings in CPS.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C. this 1st day of September 1977.

JULIUS SHISKIN,  
Commissioner of Labor Statistics.

[FR Doc.77-26354 Filed 9-8-77;8:45 am]

## BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS

## Meeting

The BRAC Committee on Productivity and Technological Developments will meet at 9:30 a.m., September 27, 1977, in Room S4215 (A, B, and C) of the New Department of Labor Building located at 200 Constitution Avenue NW., Washington, D.C. The agenda for the meeting is as follows:

1. The role of the National Academy of Science's Productivity Measurement Review Committee.
2. Developments in BLS studies of technology.
3. Status of studies on construction labor and material requirements.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202-523-1559.

Signed at Washington, D.C. this 1st day of September 1977.

JULIUS SHISKIN,  
Commissioner of Labor Statistics.

[FR Doc.77-26355 Filed 9-8-77;8:45 am]

Employment and Training Administration  
EMPLOYMENT TRANSFER AND BUSINESS  
COMPETITION DETERMINATIONS UNDER  
THE RURAL DEVELOPMENT ACT  
Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding

these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C. this Sixth day of September 1977.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

*Applications received during the week ending Sept. 2, 1977*

Name of applicant	Location of enterprise	Principal product or activity
CYR Bros. Meat Packing, Inc.	Caribou, Maine	Potato processing and food wholesaling.
Gerald Dwight Paul	Hernando, Miss.	Roadway Inn.
B. J. Nursery, Inc.	Homestead, Fla.	Polage nursery.
E. A. Britt	Shelby County, Ala.	Veterinary clinic.
Boone Medical Investors, Ltd.	Boone, N.C.	Skilled and intermediate nursing care.
Agricultural Services, Inc.	Starkville, Miss.	Manufacture and sales of agricultural supplies.
Hydro-Systems, Inc.	Portland, Tenn.	Manufacture of fabricated steel products.
Francis George Becker	Chetek, Wis.	Supper club.
Mineralwood Insulation Manufacturing Co.	Regers, Tex.	Manufacture of attic insulation.
Eastern Ozarks Community Hospital, Inc.	Sharp County, Ark.	Health care facility.
Buceaneer, Inc.	Cord, Ark.	Manufacture of fiberglass boats.
J. J. GarCon Manufacturing, Corp. (tenant of city of Flandreau)	Flandreau, S. Dak.	Manufacture of cellulose insulation.
Great Plains Supply Co. (tenant of city of Flandreau)	.....do.....	Construction of houses and sales of building materials.

[FR Doc.77-26367 Filed 9-8-77;8:45 am]

**FEDERAL-STATE EXTENDED BENEFITS**  
Availability of Extended Benefits in All States

This notice announces the beginning of a national Extended Benefit Period in all States, effective on August 28, 1977.

**BACKGROUND**

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91-373; 84 Stat. 695, 708) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or nation reaches the high levels set in the Act. An Extended Benefit Period actually begins at the beginning of the third week after the week for which there is an "on" indicator. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks.

There is a national Extended Benefit "on" indicator for a week if the United States Secretary of Labor determines that for the thirteen week period ending with that week the average rate of insured unemployment (seasonably adjusted) for all States equalled or exceeded 4.5 per centum. Whenever there is a national "on" indicator under the Act, an Extended Benefit Period will commence in every State in which an Extended Benefit Period is not already in effect, on the first day of the third week following the week for which there was an "on" indicator.

During an Extended Benefit Period, individuals who are unemployed and qualified may receive up to 13 weeks of Federal-State Extended Benefits, after

they have exhausted their rights to regular unemployment benefits under State laws and benefits under the federal unemployment compensation programs for federal government employees and for ex-servicemen and ex-servicewomen. An Extended Benefit Period in any State will last for a minimum period of 13 weeks, and will end with the third week after which there is both a State and national "off" indicator in accordance with the State's unemployment compensation law and the Federal-State Unemployment Compensation Act of 1970.

**DETERMINATION OF "ON" INDICATOR**

The United States Secretary of Labor has determined in accordance with Section 203(d) (1) of the Federal-State Extended Unemployment Compensation Act of 1970 that the average rate of insured unemployment (seasonably adjusted) for all States for the period consisting of the week ending on August 13, 1977, and the immediately preceding twelve weeks, equalled 4.5 per centum.

Therefore, I have determined in accordance with the Federal-State Unemployment Compensation Act of 1970 and applicable regulations, and as authorized by Secretary of Labor's Order No. 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a national Extended Benefit "on" indicator for the week ending on August 13, 1977, and that an Extended Benefit Period begins on August 28, 1977, in all States not currently in Extended Benefit Periods.

**INFORMATION FOR CLAIMANTS**

The Extended Benefit Period announced in this notice will last for not less than thirteen weeks. During the Extended Benefit Period, eligible individuals will be able to receive up to thirteen weeks of Extended Benefits.

The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who is an "exhaustee" (as defined in the Act and in Section 615.4(b)

of Title 20, Code of Federal Regulations) of regular benefits payable under State unemployment compensation laws and under the federal unemployment compensation laws for federal government employees and for ex-servicemen and ex-servicewomen.

Persons who believe they may be entitled to Extended Benefits in any State (including the District of Columbia and the Commonwealth of Puerto Rico), or who wish to inquire about their rights under this program, should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on Aug. 31, 1977.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

[FR Doc.77-26350 Filed 9-8-77;8:45 am]

**FEDERAL-STATE EXTENDED BENEFITS**

**Clarification of Notice of Ending of Extended Benefit Period in Vermont**

A Notice of Ending of Extended Benefit Period and Federal Supplemental Benefit Period in Vermont was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44296). That notice announced that the average rate of insured unemployment in the State of Vermont had lowered in the 13-week period ending August 13, 1977, so that the Extended Benefit Period and Federal Supplemental Benefit Period in that State would end on September 3, 1977. Subsequently, it was determined that the average rate of insured unemployment (seasonally adjusted) for all States for the 13-week period ending on August 13, 1977, equalled 4.5 per centum, and this national "on" indicator was effective for Extended Benefit Periods with the week beginning on August 28, 1977. For that reason, the Extended Benefit Period in the State of Vermont will not terminate on September 3, 1977, and Extended Benefits will remain available to eligible individuals in that State.

As announced in the notice of September 2, 1977, the Federal Supplemental Benefit Period which began in the State on January 5, 1975, terminated on September 3, 1977.

Signed at Washington, D.C., on September 2, 1977.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment & Training.

[FR Doc.77-26351 Filed 9-8-77;8:45 am]

**FEDERAL SUPPLEMENTAL BENEFITS**  
(EMERGENCY UNEMPLOYMENT COMPENSATION)

**Notice of Ending of Federal Supplemental Benefit Period in Oregon**

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Oregon, effective on September 10, 1977.

## BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the Nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Oregon on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

## DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Oregon has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on August 20, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Oregon for the week ending August 20, 1977, and that the Federal Supplemental Benefit Period in that State terminates on September 10, 1977.

Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the

last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately

## INFORMATION FOR CLAIMANTS

following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental

Benefits currently filing claims for Federal Supplemental Benefits will receive written notices from the Oregon Employment Division of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Federal Supplemental Benefits in the State of Oregon should contact the nearest State Employment Office of the Oregon Employment Division in their locality.

Signed at Washington, D.C., on September 6, 1977.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

[FR Doc.77-26349 Filed 9-8-77; 8:45 am]

MIGRANT AND SEASONAL  
FARMWORKER PROGRAMS

Fiscal Year 1978 State Planning Estimates, Programs and Areas To Be Renewed Without Competition, and Areas Open for Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: In FR Doc. 77-19528 appearing at page 35330 on Friday, July 8, 1977, it was stated that "Intrastate planning estimates for Texas and California will be published to enable participants for funding in areas not closed to competition to prepare funding requests." The sentence is corrected to read "Planning estimates for grantees in Texas and California which are being renewed without competition will be published to enable those grantees to prepare funding requests."

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213. Phone: 202-376-7288.

Signed in Washington, D.C., this 31st day of August 1977.

LAMOND GODWIN,  
Administrator,  
Office of National Programs.

[FR Doc.77-26352 Filed 9-8-77; 8:45 am]

MIGRANT AND SEASONAL  
FARMWORKER PROGRAMS

Fiscal Year 1978 Area Planning Estimates for Programs To Be Renewed Without Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to the notice in the FEDERAL REGISTER of July 8, 1977, Volume 42, Number 131, page 35330 entitled "Fiscal Year 1978 State Planning Estimates, Programs and Areas to be Renewed Without Competition, and Areas Open for Competition" and the correction thereto, the Employment and Training Administration announces planning estimates for areas to be renewed without competition.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, DOL/ETA, 601 D Street NW., Washington, D.C. 20213. Phone: 202-376-7288.

SUPPLEMENTARY INFORMATION: Planning estimates are announced for the following grantees in Texas and California, which are being renewed without competition.

## TEXAS

Community Action Council of South Texas, \$230,400.

Economic Opportunities Development Corporation of San Antonio, \$345,600.

Motivation Education and Training, \$3,288,000.

## CALIFORNIA

County of Los Angeles, \$62,200.

Signed at Washington, D.C., this 31st day of August 1977.

LAMOND GODWIN,  
Administrator,  
Office of National Programs.

[FR Doc.77-26353 Filed 9-8-77; 8:45 am]

Occupational Safety and Health  
AdministrationADVISORY COMMITTEE ON  
CONSTRUCTION SAFETY AND HEALTH  
Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday October 4, and Wednesday October 5, 1977, at the Broadway Arms Room, The Cosmopolitan Hotel, 1780 Broadway, Denver, Colorado. The meeting is open to the public.

The purpose of this meeting is to review and develop recommendations on Subpart M (floor and wall openings, and stairways) and Subpart L (ladders and scaffolds) of Part 1926—Construction Standards.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210. Phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 31st day of August 1977.

BASIL WHITING,  
Deputy Assistant Secretary of  
Labor, Occupational Safety  
and Health.

[FR Doc.77-26346 Filed 9-8-77;8:45 am]

[V-74-28]

#### INTERLAKE STAMPING CORP.

##### Extension of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of variance.

SUMMARY: This notice announces the extension of an experimental variance to Interlake Stamping Corp. from the standards prescribed in 29 CFR 1910.217 power presses.

DATES: The effective date of the variance is September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3608, Washington, D.C. 20210. Telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 1240 East Ninth Street, Cleveland, Ohio 44199.

#### I. BACKGROUND

Pursuant to the authority in section 6(b) (6) (C) of the Occupational Safety and Health Act of 1970 (84 Stat. 1595;

29 U.S.C. 655) an experimental variance from the safety standards prescribed in 29 CFR 1910.217(c) (3) (iii) (b) was granted to Interlake Stamping Corp., 4732 East 355th Street, Willoughby, Ohio 44094 on August 31, 1976 (41 FR 36702-5).

#### II. FACTS

The variance granted authorized the use of Erwin Sick electronic light curtains as a tripping means as well as a presence sensing device on 5 Bliss-OBI mechanical power presses. This system has been used in Sweden and West Germany with excellent safety records, but has not been permitted in this country. Five additional Bliss-OBI mechanical power presses were used as a control group with conventional tripping means in order to compare the safety, worker acceptance and productivity of the two methods. It was anticipated that through this experiment sufficient information would be developed to enable OSHA to determine whether this system should be approved for general or limited use, and, if so, to develop appropriate regulations governing its use.

This experimental year has been successful, both from safety and informational aspects. There were only two minor malfunctions on the 5 presses equipped with the light curtain as a tripping means. In each instance the press failed in a safe manner. On the control group of 5 presses there were 18 minor malfunctions. There have been no injuries on any of the presses involved in the experiment. On 12 occasions the operator inadvertently broke the presence sensing light field. In each instance the press stopped immediately without completing its downstroke.

The press operators stated that they found the automatic tripping with the light curtain to be less fatiguing and, therefore, the preferred method of operation. In addition, Interlake Stamping Corp. reported increased production averaging approximately 34 percent.

Personnel from the OSHA National, Regional and Area Offices made visits to the Interlake facility to observe the operation during the experimental year.

#### III. DECISION

In spite of the success of the experiment to date, it has been determined that additional information would be obtained through an extension of this variance. Because of the learning curve associated with the new tripping method, less use was made of it during the first part of the year than subsequently. Extending the experiment will thus enable OSHA to obtain a broader data base on which to base its subsequent decisions concerning this issue. In addition, the extension will enable OSHA to observe the presses and obtain data concerning their use after the novelty has worn off and the presses are being operated as a part of the regular industrial environment.

#### IV. ORDER

Pursuant to authority in section 6(b) (6) (C) of the Occupational Safety and Health Act of 1970, and in Secretary of

Labor's Order No. 8-76 (41 FR 25059), it is ordered that Interlake Stamping Corp. be, and it is hereby, authorized to continue the use of the Erwin Sick electronic light curtain as a means of initiating slide motion on its Bliss-OBI power presses under the terms of the experimental variance granted August 31, 1976 (41 FR 36702-5), except that item No. 17 shall be struck from the terms of the order and the following item inserted:

17. This variance shall continue in effect for 6 months, unless it is determined by OSHA that sufficient information has been obtained before the 6 months has expired. The Assistant Secretary for Occupational Safety and Health reserves the right to again extend the experiment if additional information is desired at the end of the 6 month period.

As soon as possible Interlake Stamping Corp. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date: This order shall become effective on September 1, 1977, and shall remain in effect for 6 months, unless revoked or extended.

Signed at Washington, D.C. this 3rd day of September 1977.

EULA BINGHAM,  
Assistant Secretary of Labor.

[FR Doc.77-26348 Filed 9-8-77;8:45 am]

#### Office of the Secretary

[TA-W-1501]

#### BETHLEHEM STEEL CORP., JOHNSTOWN, PA.

##### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1501: 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 15, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing wire products, wheels and axles at the Johnstown, Pa., plant of the Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3367). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assist-

ance, 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 with respect to workers engaged in the production of wire products and criterion (3) has not been met with respect to workers engaged in the production of wheels and axles.

#### WIRE PRODUCTS

Sales of wire products at the Johnstown plant increased 17 percent in quantity in 1976 compared to 1975.

Production of wire products increased 21 percent in 1976 compared to 1975.

#### WHEELS AND AXLES

Imports of wheels and axles increased each year from 1972 through 1975, from 24,391 tons in 1972 to 74,955 tons in 1975. Imports decreased in 1976 by 57 percent to 32,197 tons. The ratio of imports to domestic production of wheels and axles decreased in 1973 to 6.7 percent from 7.1 percent in 1972, increased to 14.2 percent in 1974, increased further in 1975 to 19.9 percent, then decreased in 1976 to 10.6 percent.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production of wire products produced at the Johnstown, Pa., plant of Bethlehem Steel Corp. has decreased as required for certification under section 222 of the Trade Act of 1974; and that imports of articles like or directly competitive with wheels and axles produced at the Johnstown, Pa., plant of Bethlehem Steel Corp. has not increased as required for certification under section 222 of the Trade Act of 1974. Therefore, workers engaged in employment related to the production of wire products, wheels, and axles are not eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 77-25933 Filed 9-8-77; 8:45 am]

[TA-W-1534]

### BETHLEHEM STEEL CORP., SPARROWS POINT, MD.

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1534: 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 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing nails and staples, carbon steel wire, cold rolled carbon steel sheet, and hot rolled carbon steel sheet at the Sparrows Point plant of the Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3368). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., 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 and production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met with regard to workers engaged in employment related to the production of nails and staples. The investigation also revealed that without regard to whether any of the other criteria have been met, criterion (2) has not been met for workers engaged in employment related to the production of wire, cold rolled sheet, and hot rolled sheet.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers at the Sparrows Point plant are separately identifiable by mill.

#### A. WIRE MILL (INCLUDES WORKERS ENGAGED IN THE PRODUCTION OF NAILS AND STAPLES AND WIRE)

The average number of workers engaged in employment related to the production of nails and staples and wire decreased 35 percent in 1975 compared to 1974. Employment declined 1 percent in 1976 compared to 1975.

Employment decreased 45 percent in the fourth quarter of 1975 and 27 percent in the first quarter of 1976 compared to the same quarters one year earlier. In the second quarter of 1976, employment increased 11 percent compared to the first quarter of 1976 (and showed no change from the second quarter of 1975). Employment increased 20 percent and 15 percent, respectively, in the third and fourth quarters of 1976 compared to the like quarters one year earlier.

Separate data were not available for workers engaged in the production of nails and staples and workers engaged in the production of wire.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

##### A. NAILS AND STAPLES

Sales in quantity declined 51 percent from 1974 to 1975 and further declined 13 percent from 1975 to 1976. Sales decreased 54 percent in quantity in the fourth quarter of 1975 and 56 percent in the first quarter of 1976 compared to the like quarters one year earlier. Sales then increased in the second and third quarters of 1976 compared to the like quarters one year earlier.

Production in quantity declined 44 percent from 1974 to 1975 and further declined 14 percent from 1975 to 1976. Production decreased 51 percent in quantity in the fourth quarter of 1975 and 60 percent in quantity in the first quarter of 1976 compared to the like quarters one year earlier. Production then increased in the second, third, and fourth quarters of 1976 compared to the like quarters one year earlier.

##### B. WIRE

Sales in quantity declined 44 percent from 1974 to 1975. Sales increased 31 percent from 1975 to 1976. Sales increased in every quarter of 1976 compared to the like quarter in 1975.

Production in quantity declined 33 percent from 1974 to 1975. Production increased 26 percent from 1975 to 1976. Production increased in every quarter of 1976 compared to the like quarter in 1975.

##### C. COLD ROLLED SHEET

Sales in quantity declined 45 percent from 1974 to 1975. Sales increased 49 percent from 1975 to 1976. Sales increased in every quarter of 1976 compared to the like quarter in 1975.

Production in quantity declined 45 percent from 1974 to 1975. Production increased 52 percent from 1975 to 1976. Production increased in every quarter of 1976 compared to the like quarter in 1975.

## D. HOT ROLLED SHEET

Sales in quantity declined 35 percent from 1974 to 1975. Sales increased 26 percent from 1975 to 1976.

Production in quantity declined 27 percent from 1974 to 1975. Production increased 23 percent from 1975 to 1976.

## INCREASED IMPORTS

## A. NAILS AND STAPLES

Imports of nails and staples decreased from 359 thousand tons in 1972 to 328 thousand tons in 1973. In 1974 imports increased to 340 thousand tons, decreased to 210 thousand tons in 1975, then increased to 340 thousand tons in 1976.

The ratio of imports to domestic production of nails and staples decreased from 101.1 percent in 1972 to 90.4 percent in 1973. In 1974 the ratio increased to 102.4 percent, decreased to 79.2 percent in 1975, then increased to 121.4 percent in 1976.

## CONTRIBUTED IMPORTANTLY

## A. NAILS AND STAPLES

A survey of customers who purchase nails and staples from the Sparrows Point plant indicated that many customers had decreased purchases of nails and staples from the Sparrows Point plant and increased purchases of imported nails and staples. The lower prices of the imports was the reason most frequently cited for switching.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with nails and staples produced at the Sparrows Point, Md., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separations of workers engaged in the production of those products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Sparrows Point, Md., plant of Bethlehem Steel Corp. engaged in the production of nails and staples who became totally or partially separated from employment on or after November 15, 1975, and before April 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

It is further concluded that neither sales nor production of wire, cold rolled sheet, or hot rolled sheet have declined at the Sparrows Point, Md., plant of the Bethlehem Steel Corp. as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,

Director, Office of  
Foreign Economic Research.

[FR Doc. 77-25934 Filed 9-8-77; 8:45 am]

[TA-W-1775]

## HAMILTON STANDARD DIVISION, UNITED TECHNOLOGIES, 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-1775: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 8, 1977, in response to a worker petition received on March 7, 1977, which was filed by Local 743 of the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing aircraft accessory parts at the Windsor Locks, Conn., plant of the Hamilton Standard Division of United Technologies, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Hamilton Standard Division of United Technologies, Inc. and its customers.

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, 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 (4) has not been met for workers employed in Buildings 1 and 2 and criterion (1) has not been met for workers employed in Building 3.

The Windsor Locks facility of Hamilton Standard consists of a main plant (Buildings 1 and 2) and an electronic plant (Building 3).

Evidence developed in the Department's investigation revealed that there

have been no total or partial separations of workers at Building 3 from February 28, 1976, one year prior to the signature date on the petition, to the present. In addition, company officials indicated that there were no expectations that separations would occur in the future at Building 3.

Further evidence developed during the Department's investigation revealed that separations of employment from Buildings 1 and 2 principally involved workers engaged in employment related to the production of fuel controls and environmental control systems (ECS's) for jet aircraft.

The Department conducted a survey of Hamilton Standard's customers for these fuel controls and ECS's. The survey revealed that none of the customers had bought fuel controls or ECS's from foreign sources. The customers contacted indicated that they rescheduled or cancelled orders with Hamilton Standard as a result of decreased demand for the jet aircraft they produced.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the fuel controls and environmental control systems produced at Buildings 1 and 2 at the Windsor Locks, Conn., plant of United Technologies, Inc. have not contributed importantly to the total or partial separation of workers at these plants. I further conclude that a significant number or proportion of workers in building 3 at the Windsor Locks, Conn., plant have not become totally or partially separated, or threatened to become separated, as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of August 1977.

HARRY GRUBERT,  
Director, Office of Foreign  
Economic Research.

[FR Doc. 77-26356 Filed 9-8-77; 8:45 am]

## Pension and Welfare Benefit Programs

[Application No. D-850]

## CERTAIN TRANSACTIONS INVOLVING CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND

## Pendency of Proposed Exemptions

CROSS REFERENCE: For a document issued jointly by the Department of Labor, Pension and Welfare Benefit Programs, and the Department of the Treasury Internal Revenue Service dealing with the above matter, see FR Doc. 77-26530 appearing in the Notices section of this issue of the FEDERAL REGISTER.

[TA-W-1789]

**MR. POWELL, ARANSAS PASS, TEX.****Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1789: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on March 1, 1977 which was filed by three workers on behalf of workers and former workers engaged in shrimp fishing aboard the trawler Mr. Powell in Aransas Pass, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on March 23, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the trawler Mr. Powell, 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 (4) has not been met.

The Department's investigation has revealed that Mr. Powell's major customer purchases all the shrimp that Mr. Powell is able to supply. This customer only purchases imported shrimp when Mr. Powell and other domestic suppliers are unable to meet its requirements. Several factors tended to depress levels of shrimp production in 1976 and consequently the quantities made available to Mr. Powell's customer. These factors included adverse weather conditions, a lack of shrimp available in known fishing grounds in the first quarter of 1977 and the imposition by the Mexican government of a 200-mile fishing restriction which prevented domestic shrimpers

from fishing within Mexican coastal waters.

**CONCLUSION**

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the shrimp produced by the trawler Mr. Powell of Aransas Pass, Tex., have not contributed importantly to the total or partial separations of workers or threat thereof of that company as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of August 1977.

JAMES F. TAYLOR,

*Director, Office of Management,  
Administration and Planning.*

[FR Doc. 77-25935 Filed 9-8-77; 8:45 am]

[TA-W-1686]

**OHIO FERRO-ALLOYS CORP.,  
PHILO, OHIO****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-1686: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 24, 1977, in response to a worker petition received on February 8, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing high carbon ferromanganese, silicomanganese and ferrosilicon at the Philo, Ohio plant of Ohio Ferro-Alloys Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13091). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in 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 four (4) has not been met with respect to ferromanganese and silicomanganese and that criteria two (2) and four (4) have not been met with respect to ferrosilicon.

**SIGNIFICANT TOTAL OR PARTIAL  
SEPARATIONS**

Average employment of production workers at the Philo, Ohio plant declined 4.2 percent in 1975 compared to 1974 and declined 3.8 percent in 1976 compared to 1975.

Production workers are used interchangeably in the production of high carbon ferromanganese, silicomanganese and ferrosilicon.

**SALES OR PRODUCTION, OR BOTH, HAVE  
DECREASED ABSOLUTELY**

Plant sales of high carbon ferromanganese, in net tons, declined 16.0 percent in 1975 compared to 1974 and 9.5 percent in 1976 compared to 1975. Plant production, in net tons, declined 12.5 percent in 1975 compared to 1974 and 17.6 percent in 1976 compared to 1975.

Plant sales of silicomanganese, in net tons, declined 17.6 percent in 1975 compared to 1974 and 3.2 percent in 1976 compared to 1975. Plant production, in net tons, declined 6.6 percent in 1975 compared to 1974 and 14.2 percent in 1976 compared to 1975.

Plant sales of ferrosilicon, in net tons, declined 11.0 percent in 1975 compared to 1974 and increased 6.3 percent in 1976 compared to 1975. Sales declined 3.2 percent in the last quarter of 1976 compared to the same quarter in 1975. Plant production, in net tons, declined 7.8 percent in 1975 compared to 1974 and increased 5.6 percent in 1976 compared to 1975. Production declined 12.6 percent in the first quarter of 1976 compared to the same quarter in 1975.

**INCREASED IMPORTS**

Imports of high carbon ferromanganese increased from 290,281 short tons in 1972 to 374,228 short tons in 1974, declined to 369,821 short tons in 1975 and increased to 461,802 short tons in 1976.

Imports of silicomanganese increased from 38,674 short tons in 1972 to 67,751 short tons in 1974, declined to 55,567 short tons in 1975 and increased to 80,118 short tons in 1976.

Imports of ferrosilicon increased from 39,600 short tons in 1972 to 142,204 short tons in 1974, declined to 70,577 short tons in 1975 and increased to 98,775 short tons in 1976.

**CONTRIBUTED IMPORTANTLY**

A representative sample of the Philo plant's customers of ferromanganese indicated that most companies do not purchase imports. These firms cited availability of supply and price as the factors that most influenced their purchasing decisions.

A representative sample of the plant's customers of silicomanganese indicated that most do not purchase imports. The only customer that reported increased purchases of imported silicomanganese also increased purchases from the Philo plant.

A representative sample of the plant's customers of ferrosilicon indicated that customers which decreased purchases of ferrosilicon either do not purchase imported ferrosilicon or decreased purchases of imported ferrosilicon.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ferrosilicon, ferromanganese and ferrosilicon produced at the Philo, Ohio plant of Ohio Ferro-Alloys Corporation did not contribute importantly to the total or partial separations of the workers engaged in the production of such products at that plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 77-25937 Filed 9-8-77; 8:45 am]

[TA-W-1446]

#### PITTSBURG WORKS, PITTSBURG, CALIFORNIA, U.S. STEEL CORP.

#### Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1446: 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 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of carbon steel wire rod, wire and wire products, and pipe and tubing at the Pittsburgh Works of the U.S. Steel Corp. in Pittsburgh, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1541). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel Corp., 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

##### A. WIRE ROD

Average employment declined 20.4 percent in the fourth quarter of 1975 as compared to the like 1974 quarter. Average employment declined 26.4 percent and 7.2 percent in the first and second quarters, respectively, of 1976 as compared to the like 1975 quarters before increasing 25.9 percent in the July-November period of 1976 as compared to the like 1975 period.

Although plant sales of carbon steel wire rod began increasing in the second quarter of 1976, plant employment of workers engaged in the production of carbon steel wire rod did not begin to increase until the third quarter of 1976 as the company was reducing inventories.

##### B. WIRE AND WIRE PRODUCTS

Average employment declined 63.3 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 29.3 percent and 10.6 percent in the first and second quarters of 1976, respectively, as compared to the like 1975 quarters before increasing 20.9 percent in the July-November period of 1976 as compared to the like 1975 period.

Although plant sales of carbon steel wire and wire products began increasing in the second quarter of 1976, plant employment of workers engaged in the production of carbon steel wire and wire products didn't begin to increase until the third quarter of 1976 as the company was reducing inventories.

##### C. PIPE AND TUBING

Average employment declined 68.6 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 26.2 percent in the first eleven months of 1976 as compared to the like 1975 period.

#### SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

##### A. WIRE ROD

Plant sales of carbon steel wire rod declined 14.5 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter. Plant sales de-

clined 35.8 percent in the first quarter of 1976 as compared to the like 1975 quarter before increasing 36.4 percent in the April-November period of 1976 as compared to the like 1975 period.

##### B. WIRE AND WIRE PRODUCTS

Plant sales of carbon steel wire and wire products declined 60.4 percent in quantity in the fourth quarter of 1975 as compared to the like 1974 quarter. Plant sales continued to decline 39.6 percent in quantity in the first quarter of 1976 as compared to the like 1975 quarter before increasing 27.4 percent in the April-November period of 1976 as compared to the like 1975 period.

##### C. PIPE AND TUBING

Plant sales of carbon steel pipe and tubing declined 65.4 percent in the fourth quarter of 1975 as compared to the like 1974 quarter and declined 16.6 percent in the first eleven months of 1976 as compared to the like 1975 period.

#### INCREASED IMPORTS

##### A. WIRE ROD

Imports of carbon steel wire rod declined from 1,313,200 tons in 1972 to 1,306,400 tons in 1973, increased to 1,827,600 tons in 1974, declined to 1,027,600 tons in 1975, and increased to 1,032,900 tons in 1976.

The ratio of imports of carbon steel wire rod to domestic shipments declined from 52.3 percent in 1972 to 46.0 percent in 1973, increased to 71.8 percent in 1974, declined to 65.1 percent in 1975, and continued to decline to 35.7 percent in 1976.

##### B. WIRE AND WIRE PRODUCTS

Imports of carbon steel wire and wire products increased from 628,500 tons in 1972 to 894,200 tons in 1973 and continued to increase to 991,500 tons in 1974, then declined to 602,600 tons in 1975, and increased to 695,600 tons in 1976.

The ratio of imports of carbon steel wire and wire products to domestic shipments increased continuously from 21.7 percent in 1972 to 32.0 percent in 1974 and then declined to 28.5 percent in 1975 before increasing to 28.9 percent in 1976.

##### C. PIPE AND TUBING

Imports of carbon steel pipe and tubing declined from 1,768,100 tons in 1972 to 1,574,600 tons in 1973, increased to 1,781,500 tons in 1974, declined to 1,542,500 tons in 1975, and increased to 1,820,700 tons in 1976.

The ratio of imports of carbon steel pipe and tubing to domestic shipments declined from 28.6 percent in 1972 to 20.3 percent in 1973 and then increased continuously to 35.8 percent in 1976.

#### CONTRIBUTED IMPORTANTLY

The Department conducted surveys of customers of the Pittsburgh plant that purchased one of the following products: carbon steel wire rod, carbon steel wire and wire products, and carbon steel pipe and tubing. For each product surveyed the comments of customers revealed that there is import influence in the domestic markets of these products. Some custom-

ers of each product that were surveyed indicated that they reduced purchases of the respective steel product made at the Pittsburgh Works and switched to foreign sources to fill some of their needs.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the carbon steel wire rod, carbon steel wire and wire products, and carbon steel pipe and tubing produced at the Pittsburgh Works of the United States Steel Corp. in Pittsburgh, Calif., have contributed importantly to the total or partial separations of workers engaged in employment related to the production of the above products at the plant as required for certification under Section 222 of the Trade Act of 1974.

In accordance with the provisions of the act, I make the following determinations:

All workers engaged in employment related to the production of either carbon steel wire rod or carbon steel wire and wire products at the Pittsburgh Works of the United States Steel Corp. in Pittsburgh, Calif., who became totally or partially separated from employment on or after November 15, 1975, and before July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers engaged in the production of carbon steel wire rod or carbon steel wire and wire products that were separated on or after July 1, 1976, are not eligible to apply for adjustment assistance.

All workers engaged in employment related to the production of carbon steel pipe and tubing at the Pittsburgh Works of the United States Steel Corp. in Pittsburgh, Calif., who became totally or partially separated from employment on or after November 15, 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 26th day of August 1977.

HARRY GRUBERT,  
Director, Office of Foreign  
Economic Research.

[FR Doc.77-25938 Filed 9-8-77;8:45 am]

[TA-W-602]

#### RCA CORP., HARRISON, N.J.

#### Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, on April 19, 1976, the Department of Labor issued a negative determination applicable to workers formerly engaged in employment related to the production of electronic test equipment at RCA Corp., Harrison, N.J. Notice of the determination was published in the FEDERAL REGISTER on April 30, 1976 (41 FR 18189).

At the request of a petitioning worker and following the issuance of a certification applicable to workers employed by a firm which produced the electronic test equipment under contract for RCA

(Kenbar Industries, TA-W-1674), a review investigation was instituted by the Director of the Office of Trade Adjustment Assistance. The review investigation developed further information concerning operations performed in test equipment-related activities at the Harrison plant.

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 the firm 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

After remaining unchanged throughout 1973 and 1974, employment of workers engaged in the designing and other activities related to the production of electronic test equipment at RCA declined 50 percent in December 1975 when RCA sold its test equipment operations. Remaining test equipment workers were separated in the first half of 1976.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of electronic test equipment by RCA declined 10 percent in 1975 from 1974.

Production of one model of test equipment, designed in Harrison, N.J., and produced for two months by RCA in Asheville, N.C., was terminated in mid-1975.

#### INCREASED IMPORTS

Imports of electronic testing equipment increased in each year from 1972 through 1976. Imports increased from \$88 million in 1972 to \$179 million in 1976. Imports increased relative to domestic production from 10.6 percent in 1972 to 11.2 percent in 1975 and 12.2 percent in 1976.

#### CONTRIBUTED IMPORTANTLY

Sales of test equipment imported by RCA increased from 31 percent of total test equipment sales in 1974 to 46 percent of sales in 1975.

Purchases of imported test equipment by RCA relative to total sales increased from 34 percent in 1973 to 39 percent in 1974 and 53 percent in 1975.

Separations of workers from RCA's test equipment activity were due to both RCA's increased reliance on imported test equipment and the firm's ultimate sale of its test equipment operations. Separations of workers began in August 1975, several months prior to RCA's decision to leave the test equipment market, and at a time when imports were significantly increasing their share of RCA's total test equipment sales. All test equipment produced by and for RCA domestically was designed, tested, and shipped by RCA employees; employees separated between July 31, 1975 and mid-January 1976, when RCA left the test equipment market, were thus adversely affected by RCA's increased reliance on imported test equipment.

#### CONCLUSION

The revised determination applicable to TA-W-602 is hereby issued as follows:

All workers engaged in employment related to the production of electronic test equipment at RCA Corp., Harrison, N.J., who became totally or partially separated from employment on or after July 31, 1975, and before January 15, 1976, are eligible to apply for adjustment under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc.77-25939 Filed 9-8-77;8:45 am]

[TA-W-1977]

#### S. KLEIN DIE CUTTING, INC. NEW YORK, N.Y.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1977: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 12, 1977 in response to a worker petition received on April 11, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers cutting brassieres and corsets at the New York, N.Y. plant of S. Klein Die Cutting, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S. Klein Die Cutting, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility re-

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 worker's 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 (4) has not been met.

The Department's investigation revealed that S. Klein Die Cutting is engaged only in the cutting of brassieres (and negligible amounts of corsets). S. Klein receives material from brassiere and corset manufacturers, cuts the material to specifications, and returns the cut pieces to the manufacturers for assembly into finished garments.

Customers (manufacturers of brassieres) of S. Klein decreased the absolute amount and the percentage of their cutting work contracted to S. Klein in the first half of 1977 compared to the first half of 1976 in favor of performing this work in-house. A small amount of cutting work has been contracted by the manufacturers to Puerto Rico. Thus, all cutting of the brassieres produced by these manufacturers continues to be performed domestically.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with brassiere cuttings produced at the New York, N.Y. plant of S. Klein Die Cutting, Inc., did not contribute importantly to the decline in sales or production or separation of workers of that plant as required for certification under section 222 of the Act.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 77-25936 Filed 9-8-77; 8:45 am]

[TA-W-2041]

#### SANDLER OF BOSTON NEW BEDFORD, MASS.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of

Labor herein presents the results of TA-W-2041: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 2, 1977, in response to a worker petition received on May 2, 1977, which was filed on behalf of workers and former workers producing women's footwear at the New Bedford, Mass. plant of Sandler of Boston.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24336). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sandler of Boston, 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, the investigation revealed that the second criterion has not been met.

The Department's investigation revealed that production in quantity at the New Bedford plant increased 25.8 percent in 1975 compared to 1974 and increased 63.8 percent in 1976 compared to 1975. For the January-April period of 1977, production increased 20.4 percent compared to the same period of 1977. There is no indication that current workers are threatened with any involuntary separations.

Sandler of Boston also sells footwear purchased from outside sources and does not maintain separate sales data for the New Bedford plant.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at the New Bedford, Mass. plant of Sandler of Boston have not decreased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration and Planning.

[FR Doc. 77-25940 Filed 9-8-77; 8:45 am]

[TA-W-1582]

#### UNION CARBIDE CORP., MARIETTA, OHIO, METALS DIVISION PLANT

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1582: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 18, 1977 in response to a worker petition received on that date which was filed by the Oil, Chemical and Atomic Workers' International Union on behalf of workers and former workers at the Marietta, Ohio Metals Division plant of Union Carbide Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5455). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., 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 with respect to Medium Carbon/Medium Silicon Ferromanganese and Silicomanganese, criteria (2) and (4) have not been met and with respect to High Carbon Ferrochrome criterion (3) has not been met. However, with respect to Low Carbon Ferrochrome and High Carbon

Ferromanganese all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average weekly production employment at the plant decreased 10 percent in 1975 from 1974 and 3 percent in 1976 from 1975.

Workers at the plant are generally not identifiable by product.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY HIGH CARBON FERROCHROME (HCFE<sub>Cr</sub>)

Production, in quantity, of HCFE<sub>Cr</sub> at the Marietta plant declined 23 percent in 1975 from 1974 and increased 29 percent in 1976 from 1975.

Sales, in quantity, of HCFE<sub>Cr</sub> at the plant declined 48 percent in 1975 from 1974 and 18 percent in 1976 from 1975.

HCFE<sub>Cr</sub> accounted for 9-11 percent (in quantity) of production at the plant in each of the three years, 1974-1976.

#### LOW CARBON FERROCHROME (LCFE<sub>Cr</sub>)

Production, in quantity, of LCFE<sub>Cr</sub> at the plant declined 24 percent in 1975 from 1974 and 19 percent in 1976 from 1975.

Sales, in quantity, of LCFE<sub>Cr</sub> at the plant declined 37 percent in 1975 from 1974 and 9 percent in 1976 from 1975.

LCFE<sub>Cr</sub> accounted for 7-12 percent, in quantity, of production at the plant in each of the three years, 1974-1976.

#### HIGH CARBON (STANDARD) FERROMANGANESE (HCFE<sub>Mn</sub>)

Production, in quantity, of HCFE<sub>Mn</sub> increased 26 percent in 1975 from 1974 and remained virtually unchanged in 1976.

Sales, in quantity, of HCFE<sub>Mn</sub> at the plant decreased 4 percent in 1975 from 1974 and 3 percent in 1976 from 1975.

HCFE<sub>Mn</sub> accounted for 33-48 percent (in quantity) of production at the plant in each of the three years, 1974-1976.

#### MEDIUM SILICON/MEDIUM CARBON FERROMANGANESE (MS/MCFE<sub>Mn</sub>)

Production, in quantity, of MS/MCFE<sub>Mn</sub> at the plant decreased 40 percent in 1975 from 1974 and increased 84 percent in 1976 from 1975.

Sales, in quantity, of MS/MCFE<sub>Mn</sub> at the plant decreased 37 percent in 1975 from 1974 and increased 43 percent in 1976 from 1975.

MS/MCFE<sub>Mn</sub> accounted for 7-13 percent (in quantity) of production at the plant in each of the three years, 1974-1976.

#### SILICOMANGANESE (SiMn)

Production, in quantity, of SiMn at the plant decreased 35 percent in 1975 from 1974 and increased 40 percent in 1976 from 1975.

Sales, in quantity, of SiMn at the plant declined 39 percent in 1975 from 1974 and increased 11 percent in 1976 from 1975.

SiMn accounted for 17-25 percent (in quantity) of production at the plant in each of the three years, 1974-1976.

Manganese metal, chromium metal, vanadium and electrolytic manganese dioxide are also produced at the plant but they each accounted for less than 4 percent (in quantity) of the production at the plant in each of the three years 1974-1976.

#### INCREASED IMPORTS

Imports of HCFE<sub>Cr</sub> increased in absolute terms and relative to domestic production in 1972-1975 from the previous year. Imports decreased from 257,577 tons in 1975 to 178,846 tons in 1976. Relatively, imports were 118.9 percent of domestic production in the first 10 months of 1976 compared to 215.0 percent in the same period of 1975.

Imports of LCFE<sub>Cr</sub>, in absolute terms and relative to domestic production, increased in 1972 from 1971, decreased in 1973 from 1972, and increased in 1974 from 1973 and in 1975 from 1974. Imports increased absolutely from 61,257 tons in 1975 to 63,750 tons in 1976. Relatively, imports were 211.6 percent in the first 10 months of 1976 compared to 104.6 percent in the first 10 months of 1975.

Imports of HCFE<sub>Mn</sub>, in absolute terms and relative to domestic production, increased in 1972 from 1971, in 1973 from 1972, in 1974 from 1973 and decreased in 1975 from 1974. Imports increased from 369,821 tons in 1975, 72.5 percent of domestic production, to 461,802 tons, 116.5 percent of domestic production in 1976.

Imports of medium and low carbon ferromanganese in absolute terms and relative to domestic production increased in 1972 from 1971, decreased in 1973 from 1972, and decreased in 1974 from 1973. Imports decreased absolutely in 1975 from 1974, but increased relative to domestic production. Imports increased from 36,990 tons, 37.9 percent of domestic production in 1975 to 75,607 tons, 80.0 percent of domestic production in 1976.

Imports of silicomanganese increased in absolute terms in 1972 from 1971, in 1973 from 1972, in 1974 from 1973 and decreased in 1975 from 1974. Relative to domestic production, imports increased in 1972 from 1971, decreased in 1973 from 1972 and increased in 1974 from 1973 and in 1975 from 1974. Imports increased from 55,567 tons, 24.9 percent of domestic production in 1975, to 80,118 tons, 45.5 percent of domestic production in 1976.

#### CONTRIBUTED IMPORTANTLY

Customers of LCFE<sub>Cr</sub> and HCFE<sub>Mn</sub> indicated that they have decreased purchases of these products from Union Carbide and have increased purchases of imports. Customers of MS/MCFE<sub>Mn</sub> and SiMn did not switch purchases from Union Carbide to imports.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with low-carbon ferro-

chrome and high carbon ferromanganese produced at the Marietta, Ohio, Metals Division plant of Union Carbide Corp., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification.

All workers engaged in employment related to the production of low carbon ferrochrome and high carbon ferromanganese at the Marietta, Ohio, Metals Division plant of Union Carbide Corp. who became totally or partially separated from employment on or after August 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that workers engaged in employment related to the production of high carbon ferrochrome, medium silicon/medium carbon ferromanganese and silicomanganese are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 29th day of January 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 77-25941 Filed 9-8-77; 8:45 am]

[TA-W-2042]

#### VOGUE INDUSTRIES, INC., LOWELL, MASSACHUSETTS

#### Certification Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2042: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 2, 1977 in response to a worker petition received on that date which was filed by Vogue Industries, Inc. on behalf of workers and former workers engaged in employment related to the production of stainless steel flatware at Vogue Industries, Inc., Lowell, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vogue Industries, 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 the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Vogue Industries decreased 33 percent from 1975 to 1976.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Vogue Industries decreased 41 percent in dollar value from 1975 to 1976.

Production at Vogue Industries decreased 39 percent in quantity from 1975 to 1976.

#### INCREASED IMPORTS

Imports of stainless steel flatware have increased absolutely and relatively to domestic production each year from 1972 through 1976. From 1975 to 1976, the ratio of imports to domestic production increased from 173.1 in 1975 to 233.7 percent in 1976.

#### CONTRIBUTED IMPORTANTLY

Customers surveyed reduced purchases of stainless steel flatware from Vogue Industries and increased purchases from domestic firms which have increasingly used foreign manufacturers as the source of stainless steel flatware.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel flatware manufactured at Vogue Industries, Inc., Lowell, Mass. contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Vogue Industries, Inc., Lowell, Mass. who became totally or partially separated from employment on or after April 26, 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 29th day of August 1977.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc.77-25942 Filed 9-8-77;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-59)]

### SPACE SCIENCE STEERING COMMITTEE; OUT-OF-ECLIPTIC (OOE) MISSION AD HOC ADVISORY SUBCOMMITTEE

#### Establishment

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and after consultation with the Office of Management and Budget NASA has determined that the establishment of an Ad Hoc Advisory Subcommittee for the Out-of-Ecliptic (OOE) Mission is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

KENNETH R. CHAPMAN,  
Assistant Administrator for DOD  
and Interagency Affairs.

August 31, 1977.

[FR Doc.77-26273 Filed 9-8-77;8:45 am]

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

#### National Endowment for the Humanities EDUCATION PROGRAMS PANEL

#### Notice of Meeting

SEPTEMBER 2, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Education Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1025, from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review Humanities Institutes applications submitted to the National Endowment for the Humanities for projects beginning after December 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal

views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26335 Filed 9-8-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 1, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of German Language and Literature submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26327 Filed 9-8-77;8:45 am]

### FELLOWSHIPS PANEL

#### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW.,

Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Classics submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. McCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26328 Filed 9-8-77;8:45 am]

#### FELLOWSHIPS PANEL

##### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Religion submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Office, Mr.

Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. McCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26329 Filed 9-8-77;8:45 am]

#### FELLOWSHIPS PANEL

##### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 3, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Art History and Architecture submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. McCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26330 Filed 9-8-77;8:45 am]

#### FELLOWSHIPS PANEL

##### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 4, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Spanish submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. McCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26331 Filed 9-8-77;8:45 am]

#### FELLOWSHIPS PANEL

##### Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Music submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. McCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26332 Filed 9-8-77;8:45 am]

## FELLOWSHIPS PANEL

## Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 6, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of Science submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26333 Filed 9-8-77;8:45 am]

## FELLOWSHIPS PANEL

## Notice of Meeting

AUGUST 30, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1023 from 9:30 a.m. to 5:30 p.m. on October 7, 1977.

The purpose of the meeting is to review 1978 Summer Seminar applications from perspective seminar directors in the field of French submitted to the National Endowment for the Humanities for project beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions

(4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26334 Filed 9-8-77;8:45 am]

## PUBLIC PROGRAMS PANEL

## Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on October 13, 1977, from 9 a.m. to 5:30 p.m., and October 14, 1977, from 9 a.m. to 5:30 p.m., in the First Floor Conference room, National Endowment for the Humanities at 806 15th Street NW., Washington, D.C.

The purpose of the meeting is to review applications for the development of humanities Public Program formats submitted to the National Endowment for the Humanities for project beginning after January 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0368.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

[FR Doc.77-26336 Filed 9-8-77;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

## PRIVACY ACT OF 1974

## Report on New Systems

The Purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget to their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a (e)). During the period August 22 through September 2, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records

## PANAMA CANAL COMPANY

*System Name:* Canal Protection Division Activity Report Files.

*Report Date:* August 29, 1977.

*Point-of-Contact:* Joseph J. Wood, Agency Records Officer, Chief, Administrative Services Division, Panama Canal Company, Box M, Balboa Heights, Canal Zone.

*Summary:* This system contains records concerning maintenance of security for the Panama Canal and Canal Zone facilities.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc.77-26483 Filed 9-8-77;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13929; File No.  
SR-DTC-77-8]

## DEPOSITORY TRUST CO.

## Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 10(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 25, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

## STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change permits inclusion of interchangeable debt securities issued by state and local governments (municipal bonds) among the securities eligible for the book-entry transfer and pledge system of the Depository Trust Co. (DTC). Participant Operating Procedures for deposits and withdrawals of municipal bonds in the bearer form, a form of indemnity agreement from a Participant and a form of agreement between a municipal bond transfer agent and DTC are attached as Exhibits 2, 3, and 4, respectively, to DTC's filing on Form 19b-4A, File No. SR-DTC-77-8. The proposed rule change requires a determination pursuant to Rules 8c-1(g) and 15c2-1(g) under the Securities Exchange Act of 1934. The proposed rule change also establishes fees associated with deposits and withdrawals of municipal bonds in the bearer form.

## STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit inclusion of interchangeable municipal bonds (i.e., municipal bonds which are issued in both the bearer form and the registered form) among the securities eligible for the DTC book-entry transfer and pledge system. Currently, municipal bonds are not DTC-eligible. The proposed rule change would enable Participants to deposit the bearer form of some municipal bond issues at DTC or the transfer agent and to deposit the bearer form of other municipal bond issues only at the transfer agent. All deposits of the bearer form of municipal bonds would be added to a balance certificate registered in the name of DTC's nominee, Cede & Co., pursuant to the FAST program, and all withdrawals of bearer municipal bonds would be deducted from the balance certificate. DTC would not store in its vault municipal bond certificates in the bearer form. Participants would pick up withdrawals of municipal bonds in the bearer form at the transfer agent upon presentation of a window receipt issued to them by DTC. Safeguards implemented by DTC to prevent such receipts from being improperly issued or used would include controls over the issuance and authentication of the receipts, photographic evidence of their delivery to Participants' messengers, and direct communication by DTC of receipt data to the transfer agent for matching against receipts presented at its window. Participants would be required to indemnify DTC against any losses incurred as a result of delivery of bearer municipal bonds by the Participant to the transfer agent or pick-up of bearer municipal bonds by the Participant from the transfer agent after receiving a valid window receipt from DTC. Any fees charged to DTC by transfer agents for handling deposits and withdrawals of municipal bonds in the bearer form would be passed through to the Participants initiating such transactions. In most other respects, the municipal bond services provided by DTC would be the same as those for corporate debt securities.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by encouraging immobilization of interchangeable municipal bonds.

DTC developed the proposed rule change as a result of suggestions from Participants. Discussions with the Securities Operations Division of the Securities Industry Association, the Securities Committee of the New York Clearing House Association, the Public Securities Rulemaking Board indicated their support of efforts to immobilize municipal bonds. A DTC study of the feasibility of including a new municipal bond issue in DTC's book-entry underwriting distribution systems was announced in the DTC Newsletter of June 1977. The Municipal Securities Rulemaking Board commented on the inapplicability of one of its rules to the proposed municipal bond service. In meetings and telephone

conversations with Participants and transfer agents, favorable opinions on the proposed municipal bond service were expressed on the grounds that the proposed service would reduce municipal bond processing costs and the risk of loss or theft associated with physical deliveries of bearer municipal bonds.

DTC perceives no burden on competition by reason of the proposed rule change.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

SEPTEMBER 2, 1977.

[FR Doc. 77-26305 Filed 9-8-77; 8:45 am]

[File No. 1-6767]

#### MARK CONTROLS CORP.

##### Application To Withdraw From Listing and Registration

SEPTEMBER 1, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both

exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before September 29, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 77-26309 Filed 9-8-77; 8:45 am]

[Release No. 34-13879;  
File No. SR-MCC-77-4]

#### MIDWEST CLEARING CORP.

##### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 18, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

##### STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves the implementation of the MST Communications System (the "MST System") of the Midwest Clearing Corp. ("MCC"). The MST System will provide a fast, flexible and cost effective communications link for broker/dealers and institutions. Development of this system is another step toward realization of a national securities processing system.

MST System terminal applications will include inquiry, input, report retrieval, and administrative message capability. Although the MST System will be phased in gradually and made available to all participants, it will not be required. MCC plans to run the MST System at no cost for at least a month after receiving Commission approval. After the month, the initial fee has been set at \$200 a month per participant.

##### STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to implement a communication linkage between MCC, its participants, and other clearing agencies which will enable them to receive information via terminal—a CRT screen, keyboard,

printer, and optional card reader. Terminal receipt of information will reduce the necessity of preparation and physical delivery of many written instructions.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions by implementing an automated communications link with MCC, its participants, and other clearing agencies that MCC believes will reduce geographic disadvantages, improve cash and securities management (same day movement of cash and securities, timely confirmation of cash and security activity, reduced interest cost, reduced errors, and improved stock loan utilization), and provide more timely pay and collect notification.

The proposed fee represents an equitable allocation of reasonable fees among its participants.

Comments have neither been solicited nor received.

The Midwest Clearing Corp. believes that no burdens have been placed on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

AUGUST 19, 1977.

[FR Doc. 77-26304 Filed 9-8-77; 8:45 am]

[Release No. 34-13916; File No.  
SR-MSE-77-31]

MIDWEST STOCK EXCHANGE, INC.  
Self-Regulatory Organizations; Proposed  
Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15

U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE  
OF THE PROPOSED RULE CHANGE

(Additions italicized—[Deletions  
bracketed])

Interpretation and policy .01 of Rule 10 of Article I of the Midwest Stock Exchange Rules is hereby amended as follows:

.01 The Executive Committee has adopted the following procedure for processing transfers of membership:

All bids for, and offerings of, memberships will be submitted to, and processed by, the Exchange's Membership Department. No private negotiations and/or sales of memberships will be allowed without the written approval of the Exchange and any sale contracts resulting from such private negotiations may be nullified by the Exchange.

Applicants for membership will not be permitted to enter a bid for a membership until the staff has [recommended to the Executive Committee that the applicant be elected to membership or in the absence of such recommendation, until the Executive Committee has elected the applicant to membership.] *determined from the application submitted that no statutory bar to membership exists.*

Any contract for the sale of a membership, which contract has been made by the Exchange on behalf of the buyer and seller, will remain in force for the fifteen calendar days next following the date on which the contract was executed. Such contract will be extended beyond the original termination date only if both parties agree in writing to such an extension and to a new termination date.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this amendment is to clarify the practice that bids for memberships are accepted upon preliminary determination that no statutory disqualification to membership exists. Upon acceptance of a bid, membership is posted and the procedures established for election to membership are commenced.

The procedure established herein is consistent with the requirements of section 6(c) of the Act which provides in part that a National Securities Exchange may deny membership to any person who is subject to a statutory disqualification.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

SEPTEMBER 1, 1977.

[FR Doc. 77-26306 Filed 9-8-77; 8:45 am]

[Release No. 34-13915; File No.  
SR-NYSE-77-24]

NEW YORK STOCK EXCHANGE, INC.  
Self-Regulatory Organizations; Proposed  
Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on August 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE AS  
SUBMITTED BY THE NEW YORK STOCK  
EXCHANGE, INC. ("NYSE")

Rule 103A. Upon notice to the member and an opportunity to be heard, Exchange approval to act as a specialist may be withdrawn in one or more stocks by the Market Performance Committee when the member's performance as a specialist is below acceptable performance levels established by the Market Performance Committee.

Notice to the member required by this Rule shall be in writing and shall contain the specific grounds to be considered as the basis for withdrawal of approval. The member shall have an opportunity to submit a written reply no later than ten days after the receipt of such notice.

The member shall also have an opportunity to be heard upon the specific grounds to be considered before the Market Performance Committee and a written record of any such hearing shall be maintained. The decision of a majority of the members of that Committee shall be final, subject to the power of the

Board of Directors to review such decision in accordance with the provisions of Article III, Section 1 of the Constitution. \* \* \* Supplementary Material:

10 Acceptable Performance. — The Market Performance Committee has established that a specialist's performance will be below acceptable levels if such specialist has been evaluated below average by members other than specialists on a specialist performance evaluation questionnaire which is used to evaluate specialists in various aspects of their performance, with an overall quarterly weighted grade below 3.00 for two or more quarters, average quarterly grades below 3.00 on three or more individual questions for two or more quarters, or an average quarterly grade below 3.00 for the same individual question for four or more consecutive quarters.

#### NYSE'S STATEMENT OF PURPOSE

The purpose of proposed new Rule 103A is to authorize the Exchange's Market Performance Committee, pursuant to authority delegated by the Exchange's Board of Directors, to establish methods of evaluating the performance of Exchange specialists, to establish minimum acceptable levels of performance based upon those evaluations, to withdraw the registration of a specialist organization in one or more stocks when its performance is below acceptable performance levels, and to initiate reallocation proceedings for such stock(s). The new rule enables the Market Performance Committee to initiate reallocation proceedings in those stocks where it believes that performance might significantly be improved by transfer to another specialist organization. This procedure will occur for the purpose of improving the quality of the Exchange's marketplace, not as a disciplinary action.

A specialist organization whose stock is selected for such reallocation may apply to retain the stock or may apply to register as a competing specialist in the stock should it be assigned to another specialist.

Rule 103A also provides due process guarantees with respect to any specialist organization whose performance is below acceptable performance levels established by the Market Performance Committee. The specialist will be provided a written notice and statement of the grounds considered as the basis for initiating reallocation proceedings, and will have the opportunity to submit a written reply and be heard by the Market Performance Committee. A written record of such hearing will be maintained, and any decision of the Committee can be appealed to the Board of Directors. Moreover, as previously mentioned, when reallocation proceedings are initiated, the specialist may apply to retain the stock, or he also may apply to compete in the stock.

Proposed Rule 103A.10 describes the measures of performance and minimum acceptable performance levels which shall be used by the Market Performance Committee to identify those specialist organizations against whom reallocation proceedings may be initiated. These will be subject to change from time to time by the Market Performance Committee as it develops new or improved performance evaluation procedures.

Rule 103A.10, as proposed, provides that the performance evaluation procedure to be used by the Market Performance Committee will be the Exchange's Specialist Performance Evaluation Questionnaire. The Questionnaire is distributed every quarter to non-specialist Floor Members, and is completed each quarter by approximately 130 such members. It contains eight questions relating to various aspects of specialist performance, and the nonspecialist Floor members are asked to evaluate specialists on each question on a scale of 5 to 1, where 5 is excellent, 4 above average, 3 average, 2 below average and 1 poor. For each specialist organization, an average grade for each question is calculated. In addition, each of the eight questions is weighted according to its relative importance, and these weights are used to compute an overall weighted grade for each specialist organization.

The Market Performance Committee may exercise its reallocation authority as set forth in proposed Rules 103A and 103A.10 based on results achieved by specialist organizations on the Specialist Performance Evaluation Questionnaire. In all cases where a specialist organization receives a grade below 3.00 it will be given at least one quarter to improve its performance before any reallocation proceeding is initiated. During that time, Exchange staff and members of the Market Performance Committee will meet with the specialist organization to counsel and assist it regarding possible methods of improving performance.

#### NYSE'S STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Proposed new Rules 103A and 103A.10 will provide a method for the Exchange to renew the competition for registration in a stock through reallocation procedures and provide a means for the Exchange to enhance the quality of its marketplace and, thus, to remain competitive with other market centers. The proposed new Rules are consistent with section 6(b)(5) of the Securities Exchange Act of 1934 which, in part, provides for Exchange rules concerned with the administration of the Exchange, and section 11A(a)(1)(C)(ii) which states that the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers, among exchange markets, and

between exchange markets and markets other than exchange markets.

#### COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments on the proposed rule change nor have any written comments been received.

#### BURDEN ON COMPETITION

NYSE asserts that the proposed rule change does not impose any burden on competition.

On or before October 14, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

SEPTEMBER 1, 1977.

[FR Doc. 77-26307 Filed 9-8-77; 8:45 am]

[Release No. 34-13893; File No. SR-NYSE-77-23]

#### NEW YORK STOCK EXCHANGE, INC.

##### Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on August 19, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

**NEW YORK STOCK EXCHANGE'S  
("NYSE's") STATEMENT OF THE TERMS  
OF SUBSTANCE OF THE PROPOSED RULE  
CHANGE**

The proposed rule change provides guidelines governing the conduct and safety of members and Floor clerical employees of a member or member organization, and a schedule of penalties which would be imposed where a violation of a guideline is found to have occurred.

**NYSE STATEMENT OF BASIS AND PURPOSE**

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to insure that the behavior of individuals on the Floor of the Exchange contributes to the efficient, undisrupted conduct of business, and does not jeopardize the safety or welfare of others. The Exchange's Board of Directors has given Floor Officials the authority to impose on-the-spot penalties against any member or Floor clerical employee of a member or member organization found in violation of the guidelines.

Permitting Floor Officials to impose on-the-spot penalties simplifies and facilitates the administration of disciplinary sanctions for minor offenses, thus enabling the Exchange to maintain better control of conduct on the trading Floor. Individuals adversely affected by the action of a Floor Official may appeal the decision to a committee of three Floor Governors. This is in addition to the due process rights guaranteed under Article III, section 1 of the Exchange Constitution, and Rule 345.

**BASIS UNDER THE ACT FOR PROPOSED  
RULE CHANGE**

The NYSE states that the proposed rule change ensures the efficient, undisrupted conduct of business on the Floor of the Exchange, and, in so doing, contributes to the protection of investors and of the public interest.

**COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE**

NYSE states that no comments were solicited by the Exchange on the proposed rule change nor have any written comments been received.

**BURDEN ON COMPETITION**

The Exchange has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons de-

siring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

AUGUST 26, 1977.

[FR Doc.77-26306 Filed 9-8-77;8:45 am]

[File No. 1-4935]

**OVERHEAD DOOR CORP.**

**Application to Withdraw From Listing and Registration**

SEPTEMBER 1, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities and Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the Company has concluded that the costs of maintaining the listing on both exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc., has not objected to this application.

Any interested person may, on or before September 29, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.77-26310 Filed 9-8-77;8:45 am]

**VETERANS ADMINISTRATION**

**WAGE COMMITTEE**

**Meetings**

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 6, 1977  
Thursday, October 20, 1977  
Thursday, November 3, 1977  
Thursday, November 17, 1977  
Thursday, December 1, 1977  
Thursday, December 15, 1977  
Thursday, December 29, 1977

The meetings will convene at 2:30 p.m. and will be held in Room 1144C, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C.

Dated: September 1, 1977.

MAX CLELAND,  
Administrator.

[FR Doc.77-26272 Filed 9-8-77;8:45 am]

## DEPARTMENT OF THE INTERIOR

## Bonneville Power Administration

(INT DES 77-22)

## ALUMAX-PACIFIC CORP. PRIMARY ALUMINUM REDUCTION PLANT AND ASSOCIATED TRANSMISSION AND SUBSTATION FACILITIES

## Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement covering the construction and operation of the Alumax-Pacific Corp. primary aluminum reduction plant and associated transmission and substation facilities to be located near Umatilla, Oreg.

Copies of the draft environmental statement are available for inspection in the library of the headquarters office of BPA, 1002 Northeast Holladay Street, Portland, Oreg. 97232; the Washington, D.C., office, Interior Building, Room 5600; and in the Walla Walla Area office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362.

Copies are also available in approximately 260 public libraries in the Pacific Northwest, and at the following Government Depository Libraries:

## GOVERNMENT DEPOSITORY LIBRARIES

Boise Public Library, Reference Dept., 715 Capitol Blvd., Boise, Idaho 83706.  
 University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.  
 Documents Division, Idaho State University Library, Pocatello, Idaho 83209.  
 Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.  
 University of Montana Library, Documents Division, Missoula, Mont. 59801.  
 Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.  
 Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.  
 University of Oregon Library, Documents Section, Eugene, Oreg. 97403.  
 Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.  
 Eastern Oregon State College Library, Eighth at K, La Grande, Oreg. 97850.  
 Northus Library, Linfield College, McMinnville, Oreg. 97128.  
 Eric V. Hauser Memorial Library, Reed College, 3203 Southeast Woodstock, Portland, Oreg. 97202.  
 Aubrey R. Watzek Library, Lewis and Clark College, Attn.: Reference Department, 0615 Southwest Palatine Hill Rd., Portland, Oreg. 97219.  
 Oregon State Library, State Library Bldg., Salem, Oreg. 97301.  
 Willamette University Library, 900 State St., Salem, Oreg. 97301.  
 Documents Division, Mable Zoe Wilson Library, Western Washington State College, 516 High St., Bellingham, Wash. 98225.  
 Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.  
 Everett Community College Library, 801 Wetmore Ave., Everett, Wash. 98201.  
 Documents Center, Washington State Library, Olympia, Wash. 98504.  
 Washington State University Library, Serial-Record Section, Pullman, Wash. 99163.

Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.

Library Association of Portland, 801 Southwest 10th Ave., Portland, Oreg. 97205.

Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.

Oregon College of Education, Library, Monmouth, Oreg. 97361.

Boise State College Library, Boise, Idaho 83725.

Idaho State Library, 325 West State St., Boise, Idaho 83702.

Ricks College, David O. McKay Library, Rexburg, Idaho 83440.

University of Puget Sound, Everitt S. Collins Memorial Library, Tacoma, Wash. 98416.

Eastern Washington State College Library, John P. Kennedy Memorial Library, Cheney, Wash. 99004.

Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.

Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.

University of Washington, School of Law Library, 3000 Condon Hall, Seattle, Wash. 98105.

Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.

Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98195.

Oregon Supreme Court Library, 12th and State Sts., Salem, Oreg. 97310.

Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.

College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.

College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls Idaho 83301.

Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.

Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.

North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.

Spokane Public Library, Comstock Bldg., West 906 Main Ave., Spokane, Wash. 99201.

A limited number of copies are available by writing to the Environmental Manager, Bonneville Power Administration—SJ, P.O. Box 3621, Portland, Oreg. 97208, or by calling toll free from anywhere in the Pacific Northwest: 1-800-547-8088. In Oregon call 1-800-452-8429. Comments on the draft environmental statement must be sent to the Environmental Manager by December 14, 1977.

Dated: July 25, 1977.

LARRY E. MEIEROTTO,  
 Deputy Assistant Secretary  
 of the Interior.

[FR Doc.77-25613 Filed 9-8-77;8:45 am]

[INT DES 77-21]

**ROLE OF THE BONNEVILLE POWER ADMINISTRATION IN THE PACIFIC NORTHWEST POWER SUPPLY SYSTEM, INCLUDING ITS PARTICIPATION IN THE HYDRO-THERMAL POWER PROGRAM**

**Availability of Program Environmental Statement and Planning Report**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental

statement covering its role in the regional power system. The statement consists of two parts and three appendixes, and is bound in five volumes.

Copies of the draft environmental statement are available for inspection in the library of the headquarters office of BPA, 1002 Northeast Holladay Street, Portland, Oreg. 97232; the Washington, D.C., office, Interior Building, Room 5600; and in the following area and district offices: Portland area office, Lloyd Plaza Building, 919 Northeast 19th Avenue, Room 201, Portland, Oreg. 97232; Seattle area office, 415 1st Avenue North, Room 250, Seattle, Wash. 98109; Spokane area office, Room 561, U.S. Court House, West 920 Riverside Avenue, Spokane, Wash. 99201; Walla Walla area office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362; Eugene district office, U.S. Federal Building, Room 206, 211 East 7th Street, Eugene, Oreg. 97401; Idaho Falls district office, 531 Lomax Street, Idaho Falls, Idaho 83401; Kalispell district office (5 miles east of Kalispell on Highway 2), Box 758, Kalispell, Mont. 59901; and the Wenatchee district office, Room 314, U.S. Federal Building, 301 Yakima Street, Wenatchee, Wash. 98801.

Copies are also available in approximately 260 public libraries in the Pacific Northwest, and at the following Government Depository Libraries:

## GOVERNMENT DEPOSITORY LIBRARIES

Boise Public Library, Reference Dept., 715 Capitol Blvd., Boise, Idaho 83706.  
 University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.  
 Documents Division, Idaho State University Library, Pocatello, Idaho 83209.  
 Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.  
 University of Montana Library, Documents Division, Missoula, Mont. 59801.  
 Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.  
 Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.  
 University of Oregon Library, Documents Section, Eugene, Oreg. 97403.  
 Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.  
 Eastern Oregon State College Library, Eighth at K, La Grande, Oreg. 97850.  
 Northus Library, Linfield College, McMinnville, Oreg. 97128.  
 Eric V. Hauser Memorial Library, Reed College, 3203 Southeast Woodstock, Portland, Oreg. 97202.  
 Aubrey R. Watzek Library, Lewis and Clark College, Attn.: Reference Department, 0615 Southwest Palatine Hill Rd., Portland, Oreg. 97219.  
 Oregon State Library, State Library Building, Salem, Oreg. 97301.  
 Willamette University Library, 900 State St., Salem, Oreg. 97301.  
 Documents Division, Mable Zoe Wilson Library, Western Washington State College, 516 High St., Bellingham, Wash. 98225.  
 Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.  
 Everett Community College Library, 801 Wetmore Ave., Everett, Wash. 98201.  
 Documents Center, Washington State Library, Olympia, Wash. 98504.  
 Washington State University Library, Serial-Record Section, Pullman, Wash. 99163.

Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.  
 Library Association of Portland, 801 Southwest 10th Ave., Portland, Oreg. 97205.  
 Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.  
 Oregon College of Education, Library, Monmouth, Oreg. 97361.  
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 Idaho State Library, 325 W. State St., Boise, Idaho 83702.  
 Riaks College, David O. McKay Library, Rexburg, Idaho 83440.  
 University of Puget Sound, Everitt S. Collins Memorial Library, Tacoma, Wash. 98416.  
 Eastern Washington State College Library, John F. Kennedy Memorial Library, Cheney, Wash. 99004.  
 Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.  
 Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.  
 University of Washington, School of Law Library, 3000 Condon Hall, Seattle, Wash. 98105.  
 Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.  
 Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98195.  
 Oregon Supreme Court Library, 12th and State Sts., Salem, Oreg. 97310.  
 Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.  
 College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.  
 College of Southern Idaho, Documents Librarian—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.  
 Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.  
 Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.  
 North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.  
 Spokane Public Library, Comstock Bldg., West 906 Main Ave., Spokane, Wash. 99201.

A Summary Report of the draft environmental statement is available at no charge by writing the Environmental Manager, Bonneville Power Administration—SJ, P.O. Box 3621, Portland, Oreg. 97208. This Summary described the contents and scope of the five-volume Role Statement. The Summary also contains an order form and price list for purchasing the draft of the official Role Statement. Because of the length of the Role Statement, a nominal charge is made to defray printing costs. For additional information call toll free from anywhere in the Pacific Northwest: 1-800-547-8088. In Oregon call 1-800-452-8429. Comments on the Draft Environmental Statement must be sent to the Environmental Manager by December 14, 1977.

Dated: July 22, 1977.

LARRY E. MEIEROTTO,  
*Deputy Assistant Secretary  
 of the Interior.*

[FR Doc.77-25612 Filed 9-8-77;8:45 am]

**Bonneville Power Administration  
 DRAFT ENVIRONMENTAL STATEMENT**

**Public Meetings**

The Bonneville Power Administration hereby gives notice of a series of public meetings to be held to discuss BPA's Fiscal Year 1979 Draft Program Environmental Statement. The purpose of the meetings is twofold: to present to the public BPA's proposed Fiscal Year 1979 Program (including major new proposed facilities included as part of this program), and to elicit comments from the public with respect to the environmental impact of BPA's proposed program.

The dates, hours, and places of these meetings are as follows: Multipurpose Room, Noxon School, Noxon, Mont., on October 11, 1977, at 7:30 p.m.; First National Bank, 504 Mineral Avenue, Libby, Mont., on October 12, 1977, at 7:30 p.m.; City Council Chambers, Sandpoint City Hall, Second Avenue Entrance, Sandpoint, Idaho, on October 13, 1977, at 7:30 p.m.; and at the Franklin County P.U.D. Auditorium, 1411 West Clark Street, Pasco, Wash., on October 25, 1977, at 7:30 p.m.

In addition to the four public meetings mentioned above, a public information center will also be set up. The purpose of the public information center is to answer questions which interested members of the public may have regarding the Fiscal Year 1979 Proposed Program in general and the proposal for Libby Integrating Transmission in particular. The public information center will be open to the public in the Council Room of the Bonner's Ferry City Hall, 104 Main, Bonner's Ferry, Idaho, on October 13, 1977, from 1 p.m. to 4:30 p.m.

For those who cannot attend any of these meetings, written comments will be accepted until the close of comment date, which is November 4, 1977. Additional or clarifying information may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208 (503-234-3361, Ext. 5136).

Dated: September 6, 1977.

WILLIAM H. CLAGETT,  
*Assistant Administrator.*

[FR Doc.77-26281 Filed 9-8-77;8:45 am]

**Bureau of Land Management**

[Group 658]

**CALIFORNIA**

**Filing of Plats of Survey; Filing Date  
 Suspended**

SEPTEMBER 2, 1977.

FR Doc.77-20949, appearing on Page 37446 of the issue for July 21, 1977, prescribed that plats of dependent resurvey and survey for certain lands in T. 11 N., R. 21 E., and T. 10 N., R. 22 E., San Bernardino Meridian, Calif., would be officially filed in the California State Office, Bureau of Land Management,

Sacramento, Calif., effective at 10 a.m. on September 2, 1977.

The official filing date is herewith suspended.

ELEANOR K. WILKINSON,  
*Chief, Branch of Records and  
 Data Management.*

[FR Doc.77-26289 Filed 9-8-77;8:45 am]

[Group 614]

**Filing of Plat of Survey  
 COLORADO**

SEPTEMBER 2, 1977.

1. Plat of survey of the following described lands accepted August 18, 1977, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colo., effective November 1, 1977.

6TH PRINCIPAL MERIDIAN

T. 1 N. R. 77 W.

Dependent resurvey and Survey of Portions of the Township.

2. This survey was performed to meet administrative needs of the Bureau of Land Management.

3. All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1630 Broadway, Denver, Colo. 80202.

GEORGE C. HINTON,  
*Chief, Public Affairs.*

[FR Doc.77-26290 Filed 9-8-77;8:45 am]

**COLORADO**

**Closure of Lands to Surface Disturbing  
 Activities**

AUGUST 31, 1977.

Notice is hereby given that under the authority of Executive Order 11644, as amended May 24, 1977, and the regulations in 43 CFR 6010, the Fruita Paleontological Area under the administration of the Bureau of Land Management is closed to unauthorized motorized and mechanized vehicular use and all other unauthorized surface disturbing activities. The area is more specifically described as:

THE PRINCIPAL MERIDIAN, COLO.

T. 1 N., R. 3 W.,

Sec. 13: SW $\frac{1}{4}$  SW $\frac{1}{4}$ ;

Sec. 24: NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$ .

The described area aggregates approximately 280 acres in Mesa County, Colo.

This closure is necessary to preserve the unique scientific values and protect the natural environment of the site from possible destruction by surface disturbing activities.

The closure shall become effective on August 31, 1977.

CHARLES W. LUSCHER,  
*Acting State Director.*

[FR Doc.77-26291 Filed 9-8-77;8:45 am]

[NM 31448]  
NEW MEXICO  
Application

SEPTEMBER 1, 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), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.  
T. 32 N., R. 10 W.,  
Sec. 18, lots 14, 19, and 20;  
Sec. 19, lots 10, 11, and 14.  
T. 32 N., R. 11 W.,  
Sec. 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 35, E $\frac{1}{2}$ SE $\frac{1}{4}$ .

This pipeline will convey natural gas across 1.68 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc.77-26292 Filed 9-8-77; 8:45 am]

[NM 31485]  
NEW MEXICO  
Application

SEPTEMBER 1, 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), Northwest Pipeline Corp. has applied for one 4 $\frac{1}{2}$ -inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO  
T. 29 N., R. 5 W.,  
Sec. 3, SW $\frac{1}{4}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ .

This pipeline will convey natural gas across 0.496 mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc.77-26293 Filed 9-8-77; 8:45 am]

[Wyoming 60183]

WYOMING

Application; Correction

SEPTEMBER 1, 1977.

In FR Doc. 77-21728 appearing at page 38424 in the FEDERAL REGISTER of July 28, 1977, the first paragraph is corrected in the thirteenth line by deleting "13" and adding in its place "12".

WILLIAM S. GILMER,  
Acting Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.77-26294 Filed 9-8-77; 8:45 am]

[Wyoming 59189—Amendment]

WYOMING

Application

AUGUST 31, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipeline Co. of Casper, Wyo., has filed an application amending its right-of-way application Wyoming 59189 for the purpose of constructing two rectifiers and related ground bed facilities across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 45 N., R. 92 W.,  
Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 26, E $\frac{1}{2}$ NW $\frac{1}{4}$ .

The rectifiers and related ground bed facilities are necessary for the operation of the oil and other synthetic liquid fuels pipelines already under consideration in this application.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the amended application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of

Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyo. 82401.

WILLIAM S. GILMER,  
Acting Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 77-26295 Filed 9-8-77; 8:45 am]

[Wyoming 59863—Amendment]

WYOMING

Application

SEPTEMBER 1, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) Montana-Dakota Utilities Co. of Bismarck, N. Dk. filed an application for an amendment to existing right-of-way Wyoming 59863 to construct a 4-inch lateral pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 39 N., R. 90 W.,  
Sec. 29, E $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

The pipeline will transport natural gas from Cottonwood well in SE $\frac{1}{4}$  of section 29, T. 39 N., R. 90 W., Fremont County, Wyo., to the applicant's pipeline in SW $\frac{1}{4}$  of section 29, T. 39 N., R. 90 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. 670, 1300 Third Street, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,  
Acting Chief, Branch of Lands  
and Minerals Operations.

[FR Doc.77-26296 Filed 9-8-77; 8:45 am]

Fish and Wildlife Service

C. J. CHAMBERLAIN

Endangered Species Permit; Receipt of  
Application

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: C. J. Chamberlain, L/J Game Bird Ranch, 4850 Alcorn Road, Fallon, Nev. 89408.

NOTICES

Forest

Attachments to 7-205  
To  
Dr. Juan Escudillo (Mexico)

Re: 7-205  
So CR 17-23

(1) Phenacis: Seven Good Members, (Coccyzoidae: Phalaropus).

(2) 1978 Hatch, Mexico. Propagation and enhancement of the species. Phenacis covered by this application were bred and hatched and raised in captivity at Siller, Nevada, U.S.A. by the applicant during the year of 1978.

(3) No attempt has ever been made, nor is one contemplated by the applicant to obtain phenacis from the wild or in any other means that would cause injury or death to this species.

(4) As in (2) above, these phenacis were hatched and raised in captivity in Siller, NV. Phenacis covered by this application will be housed in the aviaries of Dr. Escudillo a two hour drive from Mexico City, Mexico 409 - Colonia Petatlan - Mexico 13 09.

(5) The members of Dr. Escudillo's aviary were raised and the beauty of the well kept out and landscaped grounds is beyond the description of this applicant. All pens and aviaries are well planted with the various plants suitable for the birds housed. See Enclosure #1 for available photographs. Minimum pen size 10' x 30'.

(6) Dr. Escudillo is a certified veterinarian in Mexico. His collection of birds of most every species is one of the finest and largest in the world and the respect held for him would be in doubt. See Enclosure #1 for additional info.

(7) Dr. Escudillo will be more than willing to participate in any breeding program that will tend to enhance the survival of any species.

(8) The two hen phenacis will be transported in all sea airtight crates. Size will be 12-1/2 wide x 14-1/2 high x 23-1/2" long. The inside top will be heavily padded with foam rubber to prevent any head damage during shipment. Food and water containers will be placed into the corners of the shipping crates.

(9) For the past five years the only establishments in the aviaries of Dr. Escudillo have been due to old age of a very few birds.

(10) There are no contracts or agreements in this transaction other than the cost of the phenacis which is less than \$200.

(11) The issuance of this permit will enable Dr. Escudillo to introduce new blood lines into his existing fine flock of Members.

(12) Details of activities authorized by this permit are described in block #1.

(13) As in (1)(2) above.

(14) The object of this permit is to further the propagation and survival of this species. Dr. Escudillo intends to cross the two birds covered by this application with other males that he already obtained from the Petatlan Zoo thus the cooperation of the Chinese government.

(15) If and when Dr. Escudillo terminates his activities in propagating the various exotic birds of the world he will either sell them to other qualified aviculturists or dispose of them in accordance with existing rules and regulations of the Mexican Government at that time.

DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE  
LICENSE/PERMIT APPLICATION

APPLICANT:  INDIVIDUAL  CORPORATION  PARTNERSHIP  OTHER

ONE TIME ONLY  REPEATING  PERMIT

BRIEF DESCRIPTION OF ACTIVITY FOR WHICH APPLICANT IS REQUESTING LICENSE/PERMIT:

To export two (2) Seven Good Members from phenacis (Coccyzoidae: Phalaropus) from address in block #3 to Dr. Juan Escudillo of Mexico City, D.F. for new blood in an existing flock for propagation and the enhancement of the species. The above birds are 1978 hatch.

APPLICANT'S NAME, ADDRESS AND PHONE NUMBER OF APPLICANT:

C/O (Dr.) Chamberlain  
219 Gene Bird Ranch  
2859 Alcan Road  
Siller, NV. 89406  
Ph. (702) 867-2237

IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

SEX	<input type="checkbox"/> M <input type="checkbox"/> F	WEIGHT	5-7 1/2 lb	AGE	140
DATE OF BIRTH	2/18/1911	COLOR MARK	Blue	COLOR EYES	Blue
PHONE NUMBER WHEN EMPLOYED	(702) 867-2237	SOCIAL SECURITY NUMBER	570-39-0581		

OCCUPATION: Retired, Civil Service, Navy Dept.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL APPLICATION MUST BE TO GO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

IF APPLICANT IS A CORPORATION, COMPLETE THE FOLLOWING:

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.

DO YOU HOLD ANY CURRENTLY VALID FEDERAL, STATE AND WILDLIFE LICENSE OR PERMIT?

(If yes, list license number and type of license)

CSP Permit # 990 2-388

IF REGULATED BY ANY STATE OR FEDERAL AGENCY, DO YOU HAVE OTHER PERMITS TO EXPORT THE WILDLIFE? YES  NO

(If yes, list jurisdiction and type of document)

Dr. Escudillo will provide Mexican Permit, Permit of Certificate, I have visited the Commercial Game Park

DATE LICENSE/PERMIT BECOMES EFFECTIVE: 15 August 1977

ISSUE DATE: 15 August 1977

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 16 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 8 OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR 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 IN 50 USC 3601.

DATE: 15 August 1977

OFFICIAL SIGNATURE: [Signature]

OFFICIAL TITLE: [Title]

## NOTICES

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 NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, reviews, 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 2-1332-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26076 Filed 9-8-77; 8:45 am]

## CHARLES SIVELLE

## Endangered Species Permit; Receipt of Application

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: Charles Sivelle, 41 Westcliff Drive, Dix Hills, N.Y. 11746.

DIX HILLS, N.Y.,  
August 4, 1977.

DIRECTOR (FWS),  
U.S. Fish and Wildlife Service, P.O. Box  
19183, Washington, D.C.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER. A corresponding Export Permit pursuant to the Convention on International Trade Endangered Species is also requested simultaneously.

Request is made for a permit to export 6 female Edwards pheasants (*Lophura edwardsi*) 1977 hatch, as a gift for the purpose of providing new blood for propagation and enhancement of the species in Europe. The specimens referred to were propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y., 11746 during 1977.

Four (4) female Edwards pheasants (*Lophura edwardsi*) 1976 hatch were shipped in March to Mr. Winstanley under Permit No. PRT 2-526 and they have already been bred successfully, yielding progeny in 1977.

Mr. Winstanley is one of the foremost propagators of rare pheasants in England. He has successfully raised quantities of Edwards pheasants (*Lophura edwardsi*) and other rare pheasants during the last 12 years. His pheasant aviaries contain inside protective enclosures of 1,200 cubic feet and outside runs of approximately 3,000 cubic feet. The enclosures are landscaped and his management techniques have proven successful in the past. The British Ministry of Fish and Wildlife has authorized him to maintain a Quarantine Station so that he can arrange for the direct importation.

The undersigned is a prime propagator of the *Lophura edwardsi* pheasant in the United States today and is participating in the World Pheasant Association project for the enhancement of the survival and propagation program for this endangered pheasant.

The recipient will participate in a cooperative breeding program established by the World Pheasant Association and all data will be collected by Dr. Tim Lovell, official record holder of the World Studbook on Edwards Pheasants.

Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations 5th Edition, Feb. 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

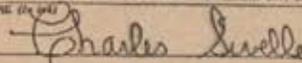
Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Winstanley and the World Pheasant Association.

Sincerely,

CHARLES SIVELLE.

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 NW., 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

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		OHR NO. 42-11420	
		1. APPLICATION FOR (Indicate only one) <input checked="" type="checkbox"/> IMPORT OR EXPORT LICENSE <input type="checkbox"/> PERMIT	
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)  Charles Sivelle 41 Westcliff Drive Dix Hills, N.Y. 11746 516-423-6146		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH LICENSE OR PERMIT IS NEEDED, TO EXPORT 6 EDWARDS HENS ( <i>Lophura edwardsi</i> ) '77 hatch, purpose to provide new blood for propagation & enhancement of the species in Europe, as a gift to The World Pheasant Association. Recipient will be T. Winstanley, 10, Readings Road, Barrowby, Grantham, Lincs, England	
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MLE.   HEIGHT 5'11"   WEIGHT 190 lbs. DATE OF BIRTH 9-24-18   COLOR HAIR Brown   COLOR EYES Blue PHONE NUMBER WHERE EMPLOYED 516-423-6146   SOCIAL SECURITY NUMBER 125-97-0277 OCCUPATION Manufacturer		5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION  n. s.	
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT  None		NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.  n. s.	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED  Export from New York City to England		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If yes, list license or permit number) PRT 2-362, PRT 8 306-C ES-68	
8. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF No fee required		9. DESIRES EFFECTIVE DATE At once	
10. ATTACHMENTS, THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 22.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.  Attachment		11. DURATION NEEDED 3 months	
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 11, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 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) 		DATE Aug. 4, 1977	

been assigned File Number PRT 2-1274-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc.77-26085 Filed 9-8-77; 8:45 am]

## CHARLES SIVELLE

## Endangered Species Permit; Receipt of Application

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: Charles Sivelse, 41 Westcliff Drive, Dix Hills, N.Y. 11746.

pegated many rare species of waterfowl, quail and partridge over the past ten years. He now wishes to propagate the above mentioned endangered species of pheasants. He has prepared aviaries with shelter of approximately 1,800 cubic feet and outside runs of approximately 3,000 cubic. The aviaries where these birds will be kept is approximately 8 feet high by 20 feet long by 12 feet wide and are covered at one end. The enclosures are landscaped and his management techniques have proven successful in the past with the various game birds including other pheasants.

He operates a commercial Quail Farm and has a veterinarian available for necropsy and analytical work. He is familiar with the many avian diseases and their remedies. His mortalities on game birds have not been excessive and not repetitive. A commercial Quail operation of necessity involves extreme care, sanitary control, and alertness.

He hopes to establish a captive self-sustaining flock of these species in his country and distribute progeny among other breeders therein. At present there aren't any of these species available in Costa Rica.

The recipient will participate in a cooperative breeding program which is one of the conditions of the sale and will contribute data to any Studbook when required.

Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations, 5th Edition, Feb. 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Drew.

Sincerely yours,

CHARLES SIVELLE.

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 NW., 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 2-1301-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc.77-26086 Filed 9-8-77; 8:45 am]

## DEPARTMENT OF CONSERVATION AND CULTURAL AFFAIRS

## Endangered Species Permit; Receipt of Application

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: Bureau of Fish and Wildlife, Dept. of Conservation and Cult. Aff., P.O. Box 1878, Frederiksted, St. Croix, V.I. 00804.

 <p>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE</p> <p>FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</p>		<p>1. APPLICATION FOR: <i>Permit only</i></p> <p><input checked="" type="checkbox"/> IMPORT OR EXPORT LICENSE <input type="checkbox"/> OTHER</p>	
<p>3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)</p> <p>Charles Sivelse 41 Westcliff Drive Dix Hills, N.Y. 11746 516-423-6146</p>		<p>4. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.</p> <p>to export in the course of a commercial activity 2 pr. of White eared and 2 pr. of Palawan Peacock pheasants to E.G. Drew, Codorniz S.A., P.O. Box 4279, San Jose, Costa Rica</p>	
<p>4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING</p> <p><input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.</p> <p>DATE OF BIRTH: 9-24-18</p> <p>HEIGHT: 5'11"</p> <p>WEIGHT: 190 lbs.</p> <p>COLOR HAIR: Brown</p> <p>COLOR EYES: Blue</p> <p>PHONE NUMBER WHERE EMPLOYED: 516-423-6146</p> <p>SOCIAL SECURITY NUMBER: 125-07-0277</p> <p>OCCUPATION: Manufacturer</p>		<p>5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION, COMPLETE THE FOLLOWING</p> <p>NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.</p> <p>N.A.</p> <p>IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED</p> <p>N.A.</p>	
<p>6. BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT</p> <p>None</p>		<p>7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If yes, list license or permit number(s): PRT 2-362, PRT 8 306-C ES-68</p> <p>8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>If yes, list jurisdiction and type of document(s): Necessary Import Permit to be supplied by Importer</p>	
<p>9. CERTIFIED CHECK OR MONEY ORDER OF APPLICANT PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF</p> <p>No fee required</p>		<p>10. DESIRED EFFECTIVE DATE: At once</p> <p>11. DURATION NEEDED: 6 months</p>	
<p>12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (SEE CFR 17.123(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 36 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.</p> <p>Attachment</p>			
<p>CERTIFICATION</p>			
<p>I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER 1 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. 901.</p>			
<p>SIGNATURE (In ink)</p> <p><i>Charles Sivelse</i></p>		<p>DATE</p> <p>Aug. 8, 1977</p>	

DIX HILLS, N.Y.  
August 8, 1977.

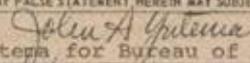
DIRECTOR (FWS),  
U.S. Fish and Wildlife Service, P.O. Box  
18183, Washington, D.C.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

Request is made for a permit to export two (2) pair of White Eared pheasants (*Crossoptilon drouyni*) and two (2) pair of Palawan Peacock pheasants (*polyplectron emphanum*). The specimens referred to were captive propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y. 11746 during 1977.

Mr. E. G. Drew of Cordoniz, S.A., P.O. Box 4279, San Jose, Costa Rica, is a noted game bird breeder within his country having pro-

OMB No. 42-11671

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE  FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		1. APPLICATION FOR (Indicate only one)													
		<input type="checkbox"/> REPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT													
		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: <b>Reintroduction of Endangered Species (St. Croix ground lizard, <i>Ameiva polops</i>) to Buck Island, near St. Croix, U.S. Virgin Islands</b>													
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) <b>Bureau of Fish and Wildlife Dept. of Conservation &amp; Cult. Aff. P.O. Box 1878 Frederiksted, St. Croix, V.I. 00840      Tel: 809/772-1955</b>		4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <table border="1"> <tr> <td><input type="checkbox"/> MR <input type="checkbox"/> MRS <input type="checkbox"/> MISS <input type="checkbox"/> MS.</td> <td>HEIGHT</td> <td>WEIGHT</td> </tr> <tr> <td>DATE OF BIRTH</td> <td>COLOR HAIR</td> <td>COLOR EYES</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED</td> <td colspan="2">SOCIAL SECURITY NUMBER</td> </tr> <tr> <td colspan="3">OCCUPATION</td> </tr> </table>		<input type="checkbox"/> MR <input type="checkbox"/> MRS <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT	WEIGHT	DATE OF BIRTH	COLOR HAIR	COLOR EYES	PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER		OCCUPATION		
<input type="checkbox"/> MR <input type="checkbox"/> MRS <input type="checkbox"/> MISS <input type="checkbox"/> 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 <b>Research and development activities, as "cooperators" under Dingell-Johnson, Pittman-Robertson, and NMFS Federal Aid Programs</b>		6. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. <b>Dr. Joseph Sylvester, Acting Director: 809/775-0470</b> <small>IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED.</small>													
7. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED <b>Buck Island, Green Cay, and Protestant Cay, all near St. Croix, U.S. Virgin Islands</b>		8. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <small>(If yes, list license or permit number)</small> <b>Not St. Croix office</b>													
9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF <b>see attached remarks</b>		10. DESIRED EFFECTIVE DATE: <b>1 Nov. 1977</b>													
11. DURATION NEEDED: <b>11/1/77-9/30/80</b>		12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.10) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. <b>50 CFR 17.22 (a): (1), (2), (3), (4), (5), (6 i-v), (7), (8 i-iv)</b>													
<b>CERTIFICATION</b>															
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 11, 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)		DATE													
 <b>John A. Yntema, for Bureau of Fish &amp; Wildlife</b>		<b>17 August 1977</b>													

ATTACHMENT TO FORM 3-200: FEDERAL FISH AND WILDLIFE PERMIT APPLICATION

Re: *Ameiva polops* (endangered species)

Remarks: Application, item 9: Instructions indicate fees are listed in 50 CFR 13.11, but no permit fee for endangered species is listed. Accordingly, no fee is enclosed. Please advise if fee is required.

Attachment information (itemized as referenced in 50 CFR 17.22(a)):

(1) Common name: St. Croix ground lizard.

Scientific name: *Ameiva polops*.

Number, age, and sex: Approximately 15-20 adults, both sexes (actual ages cannot be determined, sex is difficult to establish on live specimens).

Activity: Reintroduction to Buck Island from Protestant Cay (and Green Cay if necessary; though this is unlikely), all small islands north of St. Croix, U.S. Virgin Islands. (See item 7, below.)

(2) The lizards which would be covered by this permit:

(i) Are still in the wild.

(ii) Have not been removed from the wild.

(iii) Were not born in captivity.

(3) Since *A. polops* was designated an endangered species, by notification in the FEDERAL REGISTER (Vol. 42, No. 107, pp. 28543-28545), no member of our Bureau (applicant) has attempted to obtain this lizard in any manner, for any purpose.

However, in 1968, prior to his employment with this Bureau, Dr. Richard Philibosian, and an associate of his, Dr. Rodolfo Ruibal, introduced 16 *A. polops* from Protestant Cay to Buck Island. (See Appendix A, attached.)

(4) The lizards sought to be covered by this permit have now already been removed from the wild; no specimens have been raised in captivity.

(5) If the permit is issued, *A. polops* will be transferred, live, from Protestant Cay (and Green Cay, if necessary, though this is unlikely) to the same grove of manchineel trees (*Hippomane mancinella*) adjacent to west end picnic area on Buck Island, where the 1968 reintroduction occurred. The location and description of this area is de-

scribed in Appendix A. Buck Island is a National Monument, managed by the National Park Service. It is our understanding that reintroduction of *A. polops* to Buck Island is part of the National Park Service's Master Plan (personal comm. from Robert Thomas, Park Ranger, Buck Island National Monument).

(6) We seek to have live specimens covered by this permit.

(i) Specimens will not be maintained in any facility. They would be captured alive and unharmed, kept that way and transferred immediately to Buck Island for prompt release.

(ii) Members of the Bureau (applicant), Dr. Richard Philibosian or John Yntema, have successfully maintained in captivity several species of frogs, lizards (*Anolis* spp.) and snakes (*Alopiops portoricensis* and *Arcthyon exiguum*, among others) for periods ranging from months to years, either for use in scientific experiments or as pets. Two attempts to maintain a specimen of an *Ameiva* (*A. exul*) resulted in death of the lizards within 2-3 months; they would not eat in captivity.

(iii) Applicant is willing to participate in a cooperative breeding program, but we advise against such a program if captive specimens are used. Survival rate in captivity for prolonged periods has been zero. (See 6(1), above, for related species.) *A. polops* breeds satisfactorily in its normal habitat if predators (e.g., mongoose, cats) are absent. Adequate natural habitat presently exists for the natural propagation and survival of the species.

(iv) After capture and until release, specimens will be maintained in individual porous cloth bags, kept in the shade. Our experience in collecting lizards indicates this is the most satisfactory method of holding such animals for the brief periods anticipated in the transfer from one island to another. Feeding and watering under these conditions are unnecessary and inappropriate.

(v) Two *A. polops* were captured on Protestant Cay by applicants in December 1973, were photographed, and preserved in our museum collection for future comparative identification purposes. A photograph (slide) of one of these lizards was supplied to the Office of Endangered Species, at their request. (See Appendix C.)

Specimens of *A. exul* were captured in November 1974, and preserved. These were voucher specimens for a series of biogeographic distribution records papers (see Appendix B). Mortalities of two *A. exul* held in captivity are described in 6(1), above.

(7) Enclosed are the relevant portions of contracts and agreements pursuant to which the activities sought to be authorized by the permit will be carried out, viz:

(A) Approved Application for Federal Assistance, dated 4 June 1975. The relevant portions included are: APA form for 5-year project FW-3, narrative for Study IV, and literature cited for research and survey activities. (See Appendix D.)

(B) Project Agreement with Fish and Wildlife Service, as prepared for fiscal year 1978. This document has not yet been approved, but such approval is anticipated. The regional office (Region 4) advised that the documents be submitted, per usual, with Study IV included, and that we should apply for a permit, as we are hereby doing. The relevant portions included are: Project Agreement (form 3-1552) for FY 78 and description of Job IV-A. (See Appendix E.)

(8) The reasons for justification in obtaining the permit are generally covered in the foregoing information and attached Appendices. However, to specifically refer to the itemizations:

(1) The details of the activities sought to be authorized by the permit are explained in:

(a) Response (5), above.  
(b) Response (6) (i) and (iv), above.  
(c) "Procedures" section of Study IV of Program Narrative, contained in Appendix D, enclosed.

(d) "Procedures" section of description of Job IV-A, contained in Appendix E, enclosed.  
(ii) The details of how such activities will be carried out are fully explained in the items referred to in (8) (i), above.  
(iii) The relationship of such activities to scientific objectives or to objectives enhancing the propagation of the wildlife sought to be covered by the permit is fully covered in Appendices A, B, D, and E.

(iv) Planned disposition of such wildlife upon termination of the activities sought to be authorized by the permit:

(a) With the cooperation of the National Park Service (see response (5), above), it is the intention to reintroduce a self-sustaining population of *Ameiva polops* on Buck Island, near St. Croix, V.I. The success of this effort will depend largely on the continued trapping of mongoose on Buck Island.

Theoretically, the mongoose can be entirely eliminated from Buck Island if there is adequate and continued trapping. Such trapping is necessarily a job for the National Park Service, which has jurisdiction over Buck Island, although our Bureau will cooperate in whatever way possible.

(b) If, for some reason, the trapping of mongoose on Buck Island terminates permanently at some time in the future, and we have by then shown that the mongoose is capable of extirpating the reintroduced *A. polops* population, every effort would then be made to remove the remaining *A. polops* population from Buck Island and:

(1) Return the live lizards to the Cay(s) from which they were originally captured, or

(2) Possibly introduced them to another area free of mongoose, where they would have a good chance of survival without interference. In the event this course of action were to be followed, specific permission for such activity would be requested.

Such "another area" appears to exist: Ruth Island, a.k.a. Harvey Island, a dredge spoil island just off the St. Croix south shore location of the Martin-Marletta alumina plant at the former Krause Lagoon. The island was created in the 1960s, and is composed of sand, coral, shells, and some vegetation which has become established. Its area is probably in excess of 25 acres, or more than the combined areas of the only present habitat (Protestant and Green Cays, off St. Croix) where *A. polops* now exists. To the best of our knowledge, Ruth Island is owned by the government of the U.S. Virgin Islands.

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 NW., 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 2-1345-07; please refer to this number when submit-

ting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

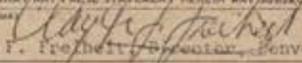
DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26080 Filed 9-8-77; 8:45 am]

### DENVER ZOOLOGICAL GARDENS Endangered Species Permit; Receipt of Application

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: Denver Zoological Gardens, City Park, Denver, Colo. 80205.

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE		1. APPLICATION FOR (Indicate only one)									
		<input type="checkbox"/> IMPORT OR EXPORT LICENSE									
		<input checked="" type="checkbox"/> PERMIT									
<b>FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</b>		<b>2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:</b> Purchase 1 male, 1 female Black Lemur, Lemur macaco, for breeding in captivity and public exhibition. These animals now located at the Denver Zoo as a breeding loan.									
<b>3. APPLICANT:</b> (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) Denver Zoological Gardens City Park Denver, Colorado 80205 Phone: 303-575-5542		<b>4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:</b> <table border="1"> <tr> <td>HEIGHT</td> <td>WEIGHT</td> </tr> <tr> <td>COLOR HAIR</td> <td>COLOR EYES</td> </tr> <tr> <td>DATE OF BIRTH</td> <td>PHONE NUMBER WHERE EMPLOYED</td> </tr> <tr> <td>SOCIAL SECURITY NUMBER</td> <td>OCCUPATION</td> </tr> </table>		HEIGHT	WEIGHT	COLOR HAIR	COLOR EYES	DATE OF BIRTH	PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	OCCUPATION
HEIGHT	WEIGHT										
COLOR HAIR	COLOR EYES										
DATE OF BIRTH	PHONE NUMBER WHERE EMPLOYED										
SOCIAL SECURITY NUMBER	OCCUPATION										
<b>5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:</b> EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Public Zoo - conservation, breeding and propagation programs, in addition to research, recreational activities, and educational programs.		<b>6. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:</b> NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Clayton F. Freiheit, Director 303-575-5542									
<b>7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <i>If yes, list license or permit number(s):</i> Scientific Collecting permit and permits E.S.-181 and E.S.-433		<b>8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <i>If yes, list jurisdictions and type of documents:</i> not required									
<b>9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$</b> not required		<b>10. DESIRED EFFECTIVE DATE</b> A.S.A.P.									
<b>11. DURATION NEEDED</b> Until terminated		<b>12. ATTACHMENTS:</b> THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED IS IN EFF. (2-72) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 C.F.R. UNDER WHICH ATTACHMENTS ARE PROVIDED: (6) (i, ii, v); (7)									
<b>CERTIFICATION</b>											
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 1 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 OF APPLICANT:  Clayton F. Freiheit, Director, Denver Zoo		DATE: August 3, 1977									

DENVER ZOOLOGICAL  
FOUNDATION, INC.  
Denver, Colo.  
August 3, 1977.

DIRECTOR (FWS/LE),  
U.S. Fish & Wildlife Service, U.S. Department  
of the Interior, P.O. Box 19183, Washing-  
ton, D.C.

DEAR SIR: The Denver Zoological Gardens requests an endangered species permit to

purchase one (1) male Black Lemur and one (1) female Black Lemur from the Saint Louis Zoological Gardens, Forest Park, Saint Louis, Mo. 63110. These animals now reside at the Denver Zoo on an inter-institutional breeding loan.

1. Common and scientific name of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

Black Lemur. Scientific Name: *Lemur macaco*. Number and Sex: one (1) male and

one (1) female, the male born 21 March, 1975 and the female born 26 March, 1975.

2. Copy of the contract or other agreement under which wildlife is to be shipped, showing country of origin, name and address of the seller, date of the contract, number and weight (if available) and description of the wildlife.

Attached is a photocopy of a letter from Mr. C. Hoessle, Deputy Director of the Saint Louis Zoo, Forest Park, Saint Louis, Mo. 63110, which is an agreement to sell the above pair of Lemurs to the Denver Zoological Gardens.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes, as appropriate and the planned disposition of the wildlife upon termination of the project.

The Denver Zoo currently displays two species of Lemurs totaling eleven specimens. These animals are kept in accepted primate cages behind glass for optimum security and health. By obtaining this particular species we believe we have an excellent chance to reproduce them based on our previous experience.

In addition, these Lemurs will be on public display with appropriate graphics explaining the purpose and nature of the exhibit.

Any specimens that would die would receive a total post mortem examination and distribution of requested body parts by our staff veterinarian. The specimen would then be preserved as a skin or a whole mount for deposit in the Denver Museum of Natural History.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The pair of Lemurs will be held at the Denver Zoo. This institution is owned by the City and County of Denver but managed and operated by a Colorado non-profit organization known as the Denver Zoological Foundation, incorporated in 1950. The postal address is Denver Zoo, City Park, Denver, Colo. 80205, telephone: 303-575-2432.

5. A statement that at the time of application the wildlife to be purchased is still in the wild, was hatched in captivity, or has been removed from the wild. As stated in Mr. Hoessle's letter, the pair of Lemurs were captive born and raised in the Saint Louis Zoo, Saint Louis, Mo., in the year of 1975.

6. A resume of the applicant's attempts to obtain the wildlife to be purchased from sources which would not cause the death or removal of mammals from the wild. The pair of Lemurs were captive born and reared, thus will not be a drain on the natural population of Black Lemurs.

7. (1) A complete description, including blueprints, of the area and facilities in which the wildlife will be housed. Individual primate cages in which the Lemurs will be housed measure 8'x7½'x7'. (See attached photocopies.)

The primate building consists of 14 of these cages. Each cage has tiled walls, sealed, heated, concrete floors, glass fronted viewing, climbing devices, and interconnecting holding cages between individual cages. A separate ventilating system provides heat and air exchange to all cages. Access to in-

dividual cages is through a single metal door located on the side of each cage, access to holding spaces is through a single wire door located on the front of each such cage. Feeding is accomplished through small metal feeding doors located at the bottom of the glass viewing areas of each cage, each feeding door has a lock. The public is maintained at a distance from the cages by a 2½ foot high guard rail and at no time can the public come into contact with the animals. This type of primate cage has proven successful in many zoological parks around the country and has been very successful at the Denver Zoo for over six years.

7. (ii) A brief resume of the technical expertise available including any experience the applicant or his personnel have had in propagating the species or closely related to the species to be purchased. See enclosed resumes. Over the past six years the Denver Zoo has maintained two species of Lemurs: the Mongoose Lemur, *Lemur mongoz*, and the Ring-tailed Lemur, *Lemur catta*. A resume of the history of these two species follows:

*Ring-tailed Lemurs (Lemur catta)*.—In May and June of 1971, the Denver Zoo received two pair of Ring-tailed Lemurs, all four of which came from other zoos in the United States. The two pair proved to be incompatible and had to be separated; one pair subsequently being shipped to the Hogle Zoo in Salt Lake City, Utah on a breeding loan where they reside today, and the other pair were placed on exhibit in the Denver Zoo Primate House in a cage previously described. Since April of 1973 the following breeding has taken place in this group:

April 8, 1973—female born.  
March 30, 1974—male born.  
March 25, 1975—female born.  
March 8, 1976—twins—stillborn.  
March 20, 1977—male born.

All of the above animals with the exception of the stillborn twins are alive and in the collection. The male born in 1974 was sent to the Jackson, Miss. Zoo in December 1975 on a breeding loan where he continues to do well.

*Mongoose Lemurs (Lemur mongoz)*.—In June 1970, the Denver Zoo received a trio, one (1) male and two (2) females, of Mongoose Lemurs from an animal dealer, original source unknown. The trio did well and one female produced an offspring in 1972. The male offspring was abandoned and died two days later.

Subsequent observations made it necessary to separate the two females, and a second pair was created by purchasing a male from the Brownsville, Tex. Zoo in December, 1972. This pair produced no offspring and the female died in 1975 and was replaced with a female sent to us by the Los Angeles, Calif. Zoo on a breeding loan. This pair has also failed to produce any offspring as of this application. The breeding of the original pair is as follows:

May 9, 1972—female born.  
April 5, 1975—male born.  
March 14, 1976—male born.  
April 27, 1977—female born.

Of the above animals, the female born in 1972 lived for 3 years and died in 1975. The male born in 1975 was abandoned at birth and died 2 days later. The other two

animals are alive and well, and are in the collection at this time.

7. (iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook. We will collaborate in contributing to/or maintaining a studbook. We, at this time, contribute to studbooks for the Edwards Pheasant, the Orangutan, Przewalski Horse, and are involved in over 50 breeding loan agreements throughout the country.

8. (iv) A detailed description of the type, size and construction of the container; Arrangements for caring for the wildlife in transit. The lemurs were shipped from St. Louis, Mo., to Denver, Colo. in crates similar and equal to International Air Transport Association requirements with one animal per crate.

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, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

EDWARD C. SCHMITT,  
General Curator,  
Denver Zoological Gardens.

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 NW., 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 2-1271-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977 will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office,  
U.S. Fish and Wildlife Service.

[FR Doc. 77-26077 Filed 9-8-77; 8:45 am]

#### DENVER ZOOLOGICAL GARDENS

#### Endangered Species Permit; Receipt of Application

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: Denver Zoological Gardens, City Park, Denver, Colo. 80206. Clayton F. Freiheit, Director.

OMB NO. 42-1870

 <b>DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE</b>  <b>FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</b>		1. APPLICATION FOR (Indicate only one)	
		<input type="checkbox"/> IMPORT OR EXPORT LICENSE	<input checked="" type="checkbox"/> PERMIT
2. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.	
Denver Zoological Gardens City Park Denver, Colorado 80205 Phone: (303) 575-5542		Purchase 1 male and 1 female Palawan Peacock Pheasant, <i>Polyplectron emphanum</i> , for breeding in captivity and public exhibition. These birds now located at the Denver Zoo as a breeding loan.	
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:		5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:	
<input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT	EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION	
DATE OF BIRTH	COLOR HAIR	Public Zoo - conservation, breeding and propagation programs, in addition to research, recreational activities, and educational programs.	
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER		
OCCUPATION		NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Clayton F. Freiheit, Director, (303) 575-5542	
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT		IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED.	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
Purchase from private game breeder M. Olsson, Route 1, Box 152, Glendale, Arizona 85301.		(If yes, list license or permit number) Scientific collecting permits and permits ES-181 and ES-433	
		8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
		(If yes, list jurisdiction and type of document) not required	
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	11. DURATION NEEDED	
not required	A.S.A.P.	Until Terminated	
12. ATTACHMENTS, THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (ON 50 CFR 23.72(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION, LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.			
(6) (i,ii,v); (7)			
<b>CERTIFICATION</b>			
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 22 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)		DATE	
Clayton Freiheit, Director Denver Zoological Gardens		August 3, 1977	

DENVER ZOOLOGICAL FOUNDATION, INC.,  
Denver, Colo., August 3, 1977.

DIRECTOR (FWS/LE),  
U.S. Fish & Wildlife Service, U.S. Department  
of the Interior, Washington, D.C.

DEAR SIR: The Denver Zoological Gardens requests an endangered species permit to purchase one (1) male Palawan Peacock Pheasant and one (1) female Palawan Peacock Pheasant from M. Olsson, Route 1, Box 152, Glendale, Ariz. 85301. These birds are now located at the Denver Zoo as an inter-institution breeding loan.

1. Common and Scientific name of the species or subspecies, number, age, and sex of the wildlife to be covered in the permit.  
Palawan Peacock Pheasant. Scientific Name: *Polyplectron emphanum*. Number and Sex: one (1) male and one (1) female, 1976 hatch (captive-bred).

2. Copy of the contract or other agreement under which wildlife is to be shipped, showing country of origin, name and address of the seller, date of the contract, number and weight (if available) and description of wildlife.

Attached is a photocopy of a letter from Mr. Mickey Olsson, Route 1, Box 152, Glen-

dale, Ariz., which is an agreement to loan the said birds to the Denver Zoological Gardens until such time as the birds may legally be purchased by the Denver Zoological Gardens.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes, as appropriate and the planned disposition of the wildlife upon termination of the project.

The Denver Zoo currently exhibits seven (7) species of pheasants in a newly completed pheasantry that is very heavily planted, providing excellent bird security. By obtaining these birds, we feel we have an excellent chance of captive propagation. We currently exhibit a related species, the Grey Peacock Pheasant (*Polyplectron bicoloratum*) which at present is laying eggs. By providing this unique environment and breeding these birds, we would hope to supply a surplus of these birds to increase the nucleus of these birds in the United States.

In addition, these birds will be in a public display which contains appropriate graphics explaining the purpose and nature of the exhibit.

Any specimens that would die would receive a total postmortem examination and distribution of requested body parts by our staff veterinarian. The specimen would then be preserved as a skin or a whole mount for deposit in the Denver Museum of Natural History.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The pair of pheasants will be held at the Denver Zoo. This institution is owned by the City and County of Denver, but managed and operated by a Colorado non-profit organization known as the Denver Zoological Foundation, Incorporated in 1950. The postal address is: Denver Zoo, City Park, Denver, Colo. 80205, telephone 303-575-5542.

5. A statement that at the time of application the wildlife to be purchased is still in the wild, was hatched in captivity, or has been removed from the wild.

As documented in Mr. Olsson's letter, the pair of pheasants were captive hatched in 1976.

6. A resume of the applicant's attempts to obtain the wildlife to be purchased from sources which would not cause the death or removal of birds from the wild.

The pair of pheasants were captive hatched, thus will not be a drain on the natural population of Palawan Peacock Pheasants.

7. (i) A complete description, including blueprints of the area and facilities in which the wildlife will be housed.

Individual pheasant pens in which the birds will be displayed measure 15 foot x 30 foot with a maximum height of 11 foot. The pheasantry consists of ten individual pens. At the back of each pen (farthest from public viewing area) is a wooden, insulated building, heated inside, with a ceiling height of 11 foot. One-by-two inch welded wire covers the entire series of pens. Access to the individual aviaries is through a single wooden door located inside the service-holding barn. This access prevents escape by being within a holding cage and it is necessary to pass through 2 doors before reaching the access door. A substantial hedge is planted in the 2 1/2 foot space between the front of the cage and the guard rail, and serves as a buffer between the public and the birds. (Blueprints of aviary's floor plan is enclosed.)

This type of aviary has proven successful in many zoological and private situations throughout the country.

This pheasantry has been in operation since September of 1976 with the loss of only one bird due to a trauma inflicted injury.

(ii) A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related to the species to be purchased.

See enclosed resumes. A list of the birds that have been reproduced through the efforts of the Curator is attached.

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

We are participating in various studbooks at this time, including the one on the White Eared Pheasant and will continue to contribute to or help maintain a studbook. This project is in fact a cooperative and collaborative effort of game breeders throughout the world. We, at this time, are actively participating in 30 breeding loan arrangements throughout the country.

(iv) A detailed description of the type, size and construction of the container: Arrangements for caring for the wildlife in transit.

The pheasants have been shipped from Phoenix, Ariz., to Denver in crates similar and equal to International Air Transport Association Style F with one bird per compartment.

I hereby certify that I have read and am familiar with the regulations contained in

## NOTICES

Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

EDWARD C. SCHMITT,  
General Curator,  
Denver Zoological Gardens.

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, NW., 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 2-1272-

C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26078 Filed 9-8-77; 8:45 am]

### KEITH S. ESSELINK

#### Threatened Species Permit; Receipt of Application

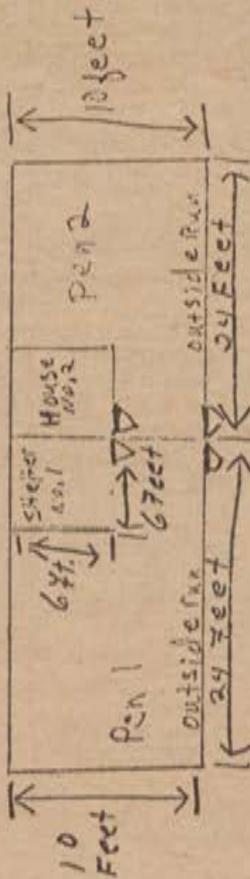
Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Keith S. Esselink, Box 306, Leota, Minn. 56153.

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE		1. APPLICATION FOR (Indicate only)													
 <p>FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION</p>		<input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT													
		<p>2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.</p> <p>Unlimited CSSP Permit To purchase some Pheasants which come under this permit. Swinhoe (Lophura swinhoii), Brown Eared (Crossoptilon manchuricum), Hume's Bartailed (Syrmaticus humae), and Mikado (Syrmaticus mikado).</p>													
<p>3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)</p> <p>Keith S. Esselink Box 306 Leota Minnesota 56153 PH. 507-443-6211</p>		<p>4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:</p> <table border="1"> <tr> <td><input checked="" type="checkbox"/> MR.   <input type="checkbox"/> MRS.   <input type="checkbox"/> MISS   <input type="checkbox"/> MLE.</td> <td>HEIGHT 5-9</td> <td>WEIGHT 170</td> </tr> <tr> <td>DATE OF BIRTH 8/25/55</td> <td>COLOR HAIR Brown</td> <td>COLOR EYES Blue</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED 507-443-6211</td> <td colspan="2">SOCIAL SECURITY NUMBER 469-80-1024</td> </tr> <tr> <td colspan="3">OCCUPATION Farming</td> </tr> </table> <p>ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT None</p>		<input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MLE.	HEIGHT 5-9	WEIGHT 170	DATE OF BIRTH 8/25/55	COLOR HAIR Brown	COLOR EYES Blue	PHONE NUMBER WHERE EMPLOYED 507-443-6211	SOCIAL SECURITY NUMBER 469-80-1024		OCCUPATION Farming		
<input checked="" type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MLE.	HEIGHT 5-9	WEIGHT 170													
DATE OF BIRTH 8/25/55	COLOR HAIR Brown	COLOR EYES Blue													
PHONE NUMBER WHERE EMPLOYED 507-443-6211	SOCIAL SECURITY NUMBER 469-80-1024														
OCCUPATION Farming															
<p>5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED</p> <p>From Colo. to Minn. And possibly other states if I can.</p>		<p>6. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:</p> <p>EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION</p>													
<p>7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit numbers)</p> <p>No. 557</p>		<p>8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED? (If yes, list jurisdictions and type of documents)</p> <p><input type="checkbox"/> YES    <input checked="" type="checkbox"/> NO</p>													
<p>9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF</p> <p>* No fee is required</p>		<p>10. DESIRED EFFECTIVE DATE Oct. 1 1977</p> <p>11. DURATION NEEDED Two Years</p>													
<p>12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 22.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.</p> <p>"50 CFR 17.33."</p>															
<p>CERTIFICATION</p>															
<p>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.</p>															
<p>SIGNATURE (In ink)</p> <p>Keith Esselink</p>		<p>DATE</p> <p>8/20/77</p>													

ATTACHMENTS FOR AN UNLIMITED C SSP PERMIT

There are four species of pheasants that I would like to get depending on which ones are available. They are the Swinhoe (*Lophura swinhooides*), Brown-Eared (*Crossoptilon manchuricum*), Humes-Bartailed (*Symantides humesii*), and Mukkodo (*Symantides mikkodo*).



I will be the one who will be taking care of the pheasants. I have been raising pheasants and peafowl for about the last five years. I am willing to participate in a cooperative breeding program and to contribute data on a studbook. I have a friend that also lives in Minnesota and we will be helping each other from time to time breeding birds.

Depending on how far I have to travel to buy the birds they will be put in a small wooden box. It will be big enough for them to stand and turn around. The box will be covered to keep the birds in the dark to keep them settled. If it's a long trip they will be given sufficient time for water and feed. In which I will personally attend them.

Their transportation will be by car as I will not have them shipped by plane or other. I would get the birds myself.

I have not had any of these birds before so I cannot comment on mortalities. The birds I have now are okay. I have had a couple die of colds and sinus problems. To combat this I have given the sick birds an injection of penicillin and in a couple of days the birds are back to normal.

I need the permit so I can buy these birds legally from other states. And so I can also sell the young that I would raise. If I were ever to quit I would sell out to other people who are qualified to raise and purchase them.

ATTACHMENTS FOR AN ENDANGERED SPECIES PERMIT

There is one species of pheasants that I would like to get, the Elliot's (*Symantides ellioti*).

This is the only difference otherwise it is the same as the above.

KATHY ESSELINK

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 NW., 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 2-1344-25. Please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26079 Filed 9-8-77; 8:45 am]

LOS ANGELES ZOO

Threatened Species Permit; Receipt of Application

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: Los Angeles Zoo, 8333 Zoo Drive, Los Angeles, Calif. 90027.

DEPARTMENT OF THE INTERIOR  
U.S. FISH AND WILDLIFE SERVICE  
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

Los Angeles Zoo  
5333 Zoo Drive  
Los Angeles, California 90027  
(213) 666-4650

1. APPLICANT'S NAME, COMPLETE ADDRESS AND PHONE NUMBER OF APPLICANT, BUSINESS, AGENCY, OR INSTITUTION FOR WHICH PERMIT IS REQUESTED

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED

3. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Warren P. Thomas, D.V.M., Zoo Director 213-666-4650

4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING

DATE OF BIRTH: [ ] M [ ] W [ ] M [ ] F

COLOR HAIR: [ ] B [ ] BR [ ] R [ ] O [ ] Y [ ] G [ ] BL [ ]

COLOR EYES: [ ] B [ ] BR [ ] R [ ] O [ ] Y [ ] G [ ] BL [ ]

PHONE NUMBER WHERE EMPLOYED: [ ] SOCIAL SECURITY NUMBER: [ ]

OCCUPATION: [ ]

5. IF APPLICANT IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING

BUSINESS TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Public zoo operated by City of Los Angeles, Department of Recreation and Parks.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

Los Angeles, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, STATE, AND WILDLIFE LICENSE OR PERMIT (If yes, list license or permit number) YES [ ] NO [ ]

PRT-8-374-C  
PRT-8-237-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, OR YOU HAVE THEIR APPROVAL, TO CONDUCT THE ACTIVITY YOU REQUEST, CHECK THE TYPE OF APPROVAL (If yes, list jurisdiction and type of approval) YES [ ] NO [ ]

ISRAELI IMPORT PERMIT (enclosed).

9. CERTIFIED CHECK OR MONEY ORDER BY APPLICANT PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$ [ ]

10. LICENSE EFFECTIVE DATE: 15 Sept 77

11. DURATION NEEDED: 6 months

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (AS SET FORTH HEREIN) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 96 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 17-22 (1-8)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 17 OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS OF CHAPTER 8 OF CHAPTER 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 OF APPLICANT: Warren P. Thomas

DATE: August 3, 1977

THE LOS ANGELES ZOO,  
Los Angeles, Calif., August 8, 1977.

USDI  
Federal Wildlife,  
Permit Office,  
Washington, D.C.

TO WHOM IT MAY CONCERN:

(1) Export (sell) 8 Arabian oryx, (*Oryx leucoryx*), born Los Angeles Zoo 1976 and 1977 (ISIS sheets enclosed), to Nature Reserve Authority, 16 Hanatsiv Street, Tel Aviv, Israel.

(2) Born in captivity.

(3) All specimens captive born—no animals removed from the wild.

(4) All animals born Los Angeles Zoo, Los Angeles, Calif.

(5) See enclosure on Hal-Bar Reserve.

(6) I. See enclosure on Hal-Bar Reserve.

II. Like all the other animals in the Reserve, the oryx will be under the devoted, joint care of the following excellent team:

(a) Dr. Amnon Tadmor—After graduation from a secondary agricultural school in Israel, Dr. Tadmor studied veterinary medicine at the Royal University of Utrecht, from which he graduated in 1960. He is a first-class veterinarian, highly experienced in the treatment of wild animals for some twenty years now. Dr. Tadmor is a senior employee of the Veterinary Services Dept. in Israel, and has been in charge of the Tel Aviv University Zoological Garden for many years.

(b) Dr. Moshe Avram—Studied veterinary medicine at Bern University (Switzerland), from which he graduated in 1954. Worked for 9 years as District Veterinarian at the 'Hahakla' Animal Insurance Company. He has been Director of the Zoological Garden of Tel Aviv for many years, and has had 15 years of experience in the treatment of wild animals at the Hal-Bar Reserve, as well as at the Tel Aviv University Zoo. Dr. Avram is a member of the Board of Directors of Hal-Bar.

(c) Mr. Mike van Grevenbroek—A 32-year-old Dutchman, studied at a university in Holland, from which he graduated with a degree in animal husbandry. He has been managing the Hal-Bar Reserve since September 1969, and is a man of outstanding knowledge and experience in the treatment of the wild animals in the Hal-Bar Reserve.

(d) Mr. Berend van Wyk—A Dutch veterinary student, who has been in Israel since January 1977, for a year's work at the Hal-Bar Reserve. He is extremely capable, loyal, and devoted in his work and treatment of our wild animals.

(e) Mr. Uri Tzon—Studied Zoology at Tel Aviv University. Has had much practical experience with wild animals' breeding and upbringing since 1951. He was one of the original keepers at the Hal-Bar Reserve (since 1968), and has been General Secretary of the Hal-Bar Organization since 1960.

III. The Los Angeles Zoo is and will continue to submit data to the Arabian oryx studbook keeper. Data is also submitted to ISIS and to the International Zoo Yearbook. The Hal-Bar Reserve submits data to the appropriate studbook keeper on those species which it maintains.

IV. The animals will be sent to Israel by air. Each animal will be in its own crate measuring 61" long 62" high and 30" wide. They will be flown from Los Angeles to Lod Airport in Israel, or with one intermediate stop in New York or in Europe. The flight will take 12-14 hours. At Lod Airport they will be unloaded from the aeroplane, and loaded onto a special truck which will carry them straight to the Hal-Bar Wildlife Reserve, which is located in the Arava (in the south of Israel). The trip from Lod Airport to the Hal-Bar Wildlife Reserve will take 5½ hours. On the trip from Lod Airport the animals will be accompanied by two Veterinary Doctors, Dr. Amnon Tadmor and Dr. Moshe Avram, and by a team of employees of the Wildlife Reserve, who will all be waiting at the airport for the animals to arrive.

V. (a) Addax—2 (one of these died of old age and the other as a result of going by a Scimitar-horned oryx).

(b) Scimitar-horned oryx—3 (one was rejected by the herd and killed in a fight between two males; the second (aged one month) died as a result of being bitten and trampled on by an onager; the third died at the age of two months as a result of a congenital defect causing it loss of balance).

(c) Nubian ibex—6 (five died of food poisoning, and the sixth broke its neck as a result of panic caused by a low-flying aeroplane).

All the mortalities described above occurred in the open 3,000-acre terrain, where the animals were free in natural surroundings, with not a single case of mortality having been due to disease.

Mike van Grevenbroek from the Hal-Bar Reserve will most probably be sent to the United States to accompany the animals from Los Angeles to Lod Airport in Israel.

(7) Offer of sale and Israel import permit enclosed.

(8) I. and II. Los Angeles Zoo personnel will accompany the animals to the Los Angeles Airport. Upon arrival at the Reserve the oryx will be accommodated in two separate groups, consisting of two males and two females each. Both groups will be released into two separate 3-acre enclosures, well protected by 2" x 3" wire-netted 7 ft. high fencing secured with a very strong wooden base.

Each enclosure will be equipped with adequate feeding and drinking facilities, and with special arrangements which will make possible the isolation of any one animal for purpose of treatment, etc. Likewise, there will be special arrangements for isolating all the males, or part of them or each one of them separately, if necessary, in the case of any one male being rejected by the other specimens in the herd.

At a later stage, after several months of acclimatization, one pair of oryx will be released into an open 3000-acre area, well protected by a fence, consisting of strong concrete posts and 7 ft. high wire-netting, secured, on a slant, 3.5 ft. below ground.

There is plenty of natural pasture in this terrain, and the indigenous Acacia trees give much shade. Several drinking stations are dispersed over the area.

After an additional period of several months, yet another pair of oryx will be released into this terrain, and so forth until all the animals will have been so released.

III. The aim of the Hal-Bar Reserve in obtaining the Arabian oryx is propagation of the species. The overall goal of this organization is to encourage the breeding of rare wild species which in ancient times populated Israel, the Holy Land and which have been completely exterminated there and are now on the list of endangered species. The Nature Reserve Authority hopes to populate the 3,000-acre Hal-Bar Reserve in the Arava (in the south of Israel) with wild animals that once lived in the area.

IV. The 8 Arabian oryx will be permanently maintained at the Hal-Bar Reserve.

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 NW., 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 2-1306-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26082 Filed 9-8-77; 8:45 am]

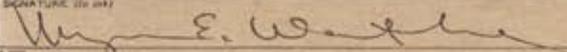
MYRNA A. WATANABE

Threatened Species Permit; Receipt of  
Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Myrna A. Watanabe, 141 Columbia Heights, Brooklyn, N.Y. 11201.

OMB NO. 43-11870

 <b>DEPARTMENT OF THE INTERIOR</b> <b>U.S. FISH AND WILDLIFE SERVICE</b> <b>FEDERAL FISH AND WILDLIFE</b> <b>LICENSE/PERMIT APPLICATION</b>		<b>1. APPLICATION FOR (Indicate only one)</b> <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT													
<b>2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.</b> Capture, tag, disturb American alligator; take no more than 20 alligator eggs, for scientific research. Ship and/or transport any specimens found dead or which die as a result of capture.		<b>3. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:</b> <table border="1"> <tr> <td><input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input checked="" type="checkbox"/> MS.</td> <td>HEIGHT 5'2"</td> <td>WEIGHT 110 lbs.</td> </tr> <tr> <td>DATE OF BIRTH 12/19/48</td> <td>COLOR HAIR Brown</td> <td>COLOR EYES Green</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED 212-598-3096</td> <td colspan="2">SOCIAL SECURITY NUMBER</td> </tr> <tr> <td colspan="3">OCCUPATION Graduate Student</td> </tr> </table>		<input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input checked="" type="checkbox"/> MS.	HEIGHT 5'2"	WEIGHT 110 lbs.	DATE OF BIRTH 12/19/48	COLOR HAIR Brown	COLOR EYES Green	PHONE NUMBER WHERE EMPLOYED 212-598-3096	SOCIAL SECURITY NUMBER		OCCUPATION Graduate Student		
<input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input checked="" type="checkbox"/> MS.	HEIGHT 5'2"	WEIGHT 110 lbs.													
DATE OF BIRTH 12/19/48	COLOR HAIR Brown	COLOR EYES Green													
PHONE NUMBER WHERE EMPLOYED 212-598-3096	SOCIAL SECURITY NUMBER														
OCCUPATION Graduate Student															
<b>4. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:</b> EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION  ANY BUSINESS, AGENCY, OR INSTITUTION AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT  Biology Department (Expected to change New York University during course of New York, N.Y. 10003 study.)		<b>5. IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED</b>  NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.  IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED													
<b>6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:</b> Okefenokee National Wildlife Refuge, Ga.; Savannah River Ecology Lab, S.C.; Rockefeller Refuge, La; and unspecified locations in states of Georgia, South Carolina, North Carolina, Florida, Louisiana, and Texas.		<b>7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If yes, list license or permit number) PRT 8-268-C													
<b>8. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$</b> 8		<b>9. DEVED EFFECTIVE DATE</b> 1/1/78 <b>10. DURATION NEEDED</b> 3 years													
<b>12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 22.22) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.</b> 17.22, 17.32		<b>11. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSED?</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If yes, list jurisdiction and type of document) Will renew current North Carolina, South Carolina & Florida permits. Georgia permit valid through 3/78. La. permit not received.													
<b>CERTIFICATION</b>															
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 BY 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)		DATE													
		July 22, 1977													

MYRNA E. WATANABE,  
141 Columbia Hts.,  
Brooklyn, N.Y. 11201.

Re: Permit to capture, tag, and disturb American alligator, and to take no more than 20 alligator eggs.

Sec. 17.22; 17.32

(1) American alligator (*Alligator mississippiensis*). Activity to be covered includes capture, tagging, marking, disturbing American alligator. Unlimited numbers of males and females of all age and size classes to be included. Animals will be released immediately after tagging. Allow for taking of up to 20 eggs in different developmental stages from unguarded nests. Transport of dead specimens.

(2) The animals to be covered by this permit are in the wild.

(3) In 1976 and 1977 capture of yearlings has been accomplished successfully by hand. In 1977 larger juveniles and adults have been captured by noosing. Neither method has resulted in any fatalities.

- (4) NA.  
(5) NA.  
(6) (i) NA.  
(ii) NA.  
(iii) NA.  
(iv) NA.

(v) To date, no animals captured for tagging by this individual or under the auspices of this individual, have died as a result of the capturing and tagging procedure.

(7) Attachments: Letter permitting activity at Okefenokee N. W. R., renewable 1-1-78; current permits for states of North Carolina, South Carolina, and Florida, renewable 1-1-78; current permit for state of

Georgia, renewable 4-1-78. Contract with Oak Ridge Associated Universities for work at Savannah River Ecology Laboratory.

(8) (i), (ii), and (iii) I propose to continue my study of the reproductive and social behavior of the American alligator (*Alligator mississippiensis*) in one of its least disturbed habitats, the Okefenokee Swamp in Georgia, and in other areas, including, but not limited to, the Savannah River Ecology Laboratory in South Carolina, the Rockefeller Refuge in Louisiana, and coastal regions of South Carolina and Georgia. Included in this study will be comparison of nesting sites used in each year of the study (beginning with 1976), observations and photography of behavior patterns seen in courtship, mating, nest-building, hatching of the young, and mother-offspring interactions, and analysis of response of these animals to different alligator vocalizations. The role of the female and vocalizations in protecting and nurturing the young will be emphasized.

This study is important in that it will (1) clarify the predominant mating system and thus denote its sensitivity to environmental change; (2) determine factors influencing survival of the young and the tolerable range of variability of these factors; (3) outline communication systems in the alligator, and analyze the components of these systems, especially in comparison with communication systems in avians; and (4) give a clearer indication of phylogeny of crocodylian behavior.

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 NW., 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 2-1277-26; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

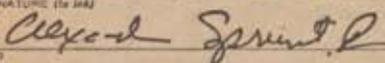
[FR Doc. 77-26087 Filed 9-8-77; 8:45 am]

**NATIONAL AUDUBON SOCIETY**  
Endangered Species Permit; Receipt of Application

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 Audubon Society, Research Department, 115 Indian Mound Trail, Tavernier, Fla. 33070. Alexander Sprunt, IV.

OMB NO. 43-0125

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		1. APPLICATION FOR (Effective only 1977)													
		<input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT													
		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.  Studies of life history, census and supplying support for nests vulnerable to wind damage. All activities concerning the Everglades Kite.													
3. APPLICANT'S Name, complete address and phone number of individual, business, agency, or institution for which permit is requested.  National Audubon Society Research Department 115 Indian Mound Trail Tavernier, Florida 33070 (305) 852-5092		5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:  EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION  A privately endowed wildlife conservation organization.													
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:  <table border="1" style="width:100%"> <tr> <td><input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.</td> <td>HEIGHT</td> <td>WEIGHT</td> </tr> <tr> <td>DATE OF BIRTH</td> <td>COLOR HAIR</td> <td>COLOR EYES</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED</td> <td colspan="2">SOCIAL SECURITY NUMBER</td> </tr> <tr> <td colspan="3">OCCUPATION</td> </tr> </table>		<input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT	WEIGHT	DATE OF BIRTH	COLOR HAIR	COLOR EYES	PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER		OCCUPATION			NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Alexander Sprunt, IV (address as above) IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED  New York	
<input type="checkbox"/> MR. <input type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> MS.	HEIGHT	WEIGHT													
DATE OF BIRTH	COLOR HAIR	COLOR EYES													
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER														
OCCUPATION															
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED  Lake Okeechobee, Florida		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number) Collecting permit 4-SC-391-9 Band permit #7104													
8. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF  N/A		9. DESIRED EFFECTIVE DATE as soon as possible.  10. DURATION NEEDED as long as possible.													
12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (34 CFR 22.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 34 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.															
<b>CERTIFICATION</b>															
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 22, 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 (If 1987)		DATE													
		15 August 1977													

Attachment to Application for Permit to enhance the survival of the Everglade Kite (*Rostrhamus sociabilis plumbeus*).

We expect to supply a nest-support structure, in the form of a welded wire basket, about 20" in diameter, 8" deep, for nests which we consider extremely vulnerable to destruction by high wind. Since 1973, we have provided this type of support for approximately 20 nests per year. The nests

average about 2.5 viable eggs. The eggs, nestlings, or adults are not handled. The nest is not moved except as necessary to place it in the basket, at the same height and location. We have seen no evidence that the Florida Everglade Kite (*Rostrhamus sociabilis plumbeus*) is in any way disturbed by this action. On the contrary, very few nests which are not supported have survived the effects of high winds in recent years.

This action will take place only on that portion of Lake Okeechobee, Florida, that is leased by the State to the National Audubon Society for a wildlife sanctuary.

Only those nests which, in our judgment based upon several years of experience, are apt to capsize in the wind will be supported by the structures.

Our research indicates that this management measure greatly enhances the production of young Everglade Kites on Lake Okeechobee. Prior to the application of this technique, production varied from zero to 3 young per year for several years. Since then about 20 young have survived annually.

Mr. Roderick Chandler, 505 SW, 10th Street, Okeechobee, Fla. 33472, telephone 813-763-3946, will be the only individual performing the work under this permit.

The Principal Officer's name is Alexander Sprunt, IV, Director, Research Department, National Audubon Society. His office address is 115 Indian Mound Trail, Tavernier, Fla. 33070. Telephone 305-852-5092.

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 NW., 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 2-1348-07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26083 Filed 9-8-77; 8:45 am]

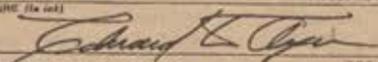
#### SEA WORLD OF FLORIDA

#### Endangered Species Permit; Receipt of Application

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: Sea World of Florida, 7007 Sea World Drive, Orlando, Fla. 32809.

OMB NO. 42-11420

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		1. APPLICATION FOR (IN "A" ONLY USE)																	
		<input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT																	
		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.  Purchase captive born Hawaiian Goose ( <i>Branta sandvicensis</i> ) an endangered species, from the St. Louis Zoological Park for the purpose of public display, education and propagation																	
3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution in which permit is requested)		4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:																	
Sea World of Florida 7007 Sea World Drive Orlando, Florida 32809		<table border="1"> <tr> <td>MR. <input type="checkbox"/></td> <td>MRS. <input type="checkbox"/></td> <td>MISS <input type="checkbox"/></td> <td>MR. <input type="checkbox"/></td> </tr> <tr> <td>DATE OF BIRTH</td> <td>COLOR HAIR</td> <td colspan="2">COLOR EYES</td> </tr> <tr> <td>PHONE NUMBER WHERE EMPLOYED</td> <td colspan="3">SOCIAL SECURITY NUMBER</td> </tr> <tr> <td colspan="4">OCCUPATION</td> </tr> </table>		MR. <input type="checkbox"/>	MRS. <input type="checkbox"/>	MISS <input type="checkbox"/>	MR. <input type="checkbox"/>	DATE OF BIRTH	COLOR HAIR	COLOR EYES		PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER			OCCUPATION			
MR. <input type="checkbox"/>	MRS. <input type="checkbox"/>	MISS <input type="checkbox"/>	MR. <input type="checkbox"/>																
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:		6. IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED.																	
Explain type or kind of business, agency, or institution Corporation. Aquatic zoological park and educational facility for mass audiences.		Florida																	
7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? (If yes, list license or permit number)		8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? (If yes, list jurisdiction and type of document)																	
PRT-2-264-AT 9-PR-1188		Permit to possess Wildlife #106																	
9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$ NA		10. DESIRED EFFECTIVE DATE As soon as possible																	
11. DURATION NEEDED Permanent		12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 22.12) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.  Please see attached.																	
<b>CERTIFICATION</b>																			
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)		DATE																	
 Edward D. Asper		July 25, 1977																	

3-200  
16-746

SFO 895-042

16-11114-77

## 50 CFR 17.22.

(1) One male, one female Hawaiian Goose (*Branta sandvicensis*), ages, one year. Purchase the pair of Hawaiian Goose that have been sent to Sea World of Florida on breeding loan.

(2) This pair of Hawaiian Goose was born in captivity at the St. Louis Zoological Park.

(3) Not applicable.

(4) Born in captivity, St. Louis Zoological Park, St. Louis, Mo., (spring 1976).

(5) Sea World of Florida, 7007 Sea World Drive, Orlando, Fla. 32809. One hundred twenty-five acre Aquatic Zoological Park, specializing in marine animals, fishes, and aquatic birds.

(6) Hawaiian Goose will be maintained in a simulated natural environmental exhibit. Proper foliage, space and constant running well water is provided. (Diagram attached.) The Sea World Animal Care staff has been specifically trained in the area of animal

husbandry which includes general maintenance procedures, nutritional requirements, egg collection and incubation procedures, brooding and rearing techniques, sexing and pinning procedures. Waterfowl collection at Sea World of Florida is 600 individuals. Annual propagation results average 1,000 waterfowl raised each year.

Sea World of Florida is willing to cooperate and participate in any breeding program and to maintain or contribute data for stud books.

Sea World has maintained one pair of Hawaiian Goose for one year without any complications or mortalities.

(7) Copy of breeding loan agreement between the St. Louis Zoo and Sea World of Florida is attached.

(8) Activities to be conducted will be to cooperatively propagate and distribute this wildlife to assure and maintain a captive breeding population. Standard practices in animal husbandry and waterfowl incubation, brooding and rearing techniques will be utilized to maximize the effectiveness of the program.

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 NW., 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 2-1273-C07; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office, U.S.  
Fish and Wildlife Service.

[FR Doc. 77-26084 Filed 9-8-77; 8:45 am]

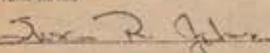
SUSAN R. JOHNSON

Threatened Species Permit; Receipt of  
Application

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: Susan R. Johnson, Rt. 1, Box 19, Lake Arthur, N. Mex. 88252.

OMB NO. 43-41420

DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE		FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION	
		1. APPLICATION FOR (Indicate only one) <input type="checkbox"/> n/a IMPORT OR EXPORT LICENSE <input type="checkbox"/> PERMIT	
APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) Susan R. Johnson Rt 1 Box 19 Lake Arthur, New Mexico 88252 505 365-2319		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. <b>RECEIVED</b> <b>MB0877</b> <b>L.E.</b>	
4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: <input type="checkbox"/> MR. <input checked="" type="checkbox"/> MRS. <input type="checkbox"/> MISS <input type="checkbox"/> ME.    HEIGHT: 5'2    WEIGHT: 110 DATE OF BIRTH: Dec 18, 1951    COLOR HAIR: Blonde    COLOR EYES: Hazel PHONE NUMBER WHERE EMPLOYED: 365-2319    SOCIAL SECURITY NUMBER: 585-54-9513 OCCUPATION: homemaker		5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL, OR FICER, DIRECTOR, ETC. IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED	
6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED Rt 1 Box 19, Lake Arthur, NM or 7 miles North of Artesia, NM- 1/2 mile west of State Road 2.		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> (If yes, list license or permit number)	
8. CERTIFIED CHECK OR MONEY ORDER (IF APPLICABLE) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: n/a		9. DESIRED EFFECTIVE DATE: Sept. 1, 1977    10. DURATION NEEDED: Sept. 1, 1979	
12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 22.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.			
<b>CERTIFICATION</b>			
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 22, 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)		DATE	
		Aug 3, 1977	

## Attachment

Part 12 of Form 3-200

(a) Application for permit under section 17.33 of 50-CFR for captive self-sustaining populations.

(1) I would like to purchase the following pheasants, which are on the Endangered and Threatened Wildlife list, for propagation of the said species and eventual dispersal of 2nd and 3rd generation of excess offspring through interstate sale and shipment.

- (a) Brown Eared Pheasant, *Crossbillon Manchuricum*.
  - (b) Edwards Pheasant, *Lophura Edwardsi*.
  - (c) Bar-Tailed Pheasant, *Symaticus Humei*.
  - (d) Mikado Pheasant, *Symaticus Mikado*.
  - (e) Swinhoe Pheasant, *Lophura Swinhoei*.
- (2) See attached graph paper.

(3) I will personally care for the birds myself. I have had two years experience raising Golden, Lady Amherst, Reeves, Silver, Ringneck pheasants. I also have had great success in raising Blue Scale, Bobwhite, Gamble, Valley quail. I have visited several people in the pheasant business and by com-

bing their experience and proven ways into a successful program for myself.

(4) I would be willing to participate in a cooperative breeding program and maintain the required data on a stud book.

(5) The transport cartons are well ventilated, waxed cartons, 24 inches by 18 inches by 7. I use this type carton for my quail. I prefer to use apple boxes for my pheasants. I include in the boxes sliced apple and lettuce for their food source. I have always picked up my birds in person so that I may control their environment during shipping. That is what I intend to do with these birds that are concerned in this application.

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 NW., 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 2-1307-25; please refer to this number when submitting comments. All relevant comments received on or before October 11, 1977, will be considered.

Dated: September 2, 1977.

DONALD G. DONAHOO,  
 Chief, Permit Branch, Federal  
 Wildlife Permit Office, U.S.  
 Fish and Wildlife Service.

[FR Doc. 77-26081 Filed 9-8-77; 8:45 am]

## Office of the Secretary

[INT DES 77-30]

BONNEVILLE POWER ADMINISTRATION;  
FISCAL YEAR 1979 PROPOSED PROGRAMAvailability of Draft Environmental  
Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement covering its Fiscal Year 1979 Proposed Program.

Copies of the draft environmental statement are available for inspection in the library of the headquarters Office of BPA, 1002 NE Holladay Street, Portland, Ore. 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and in the following Area and District Offices: Portland Area Office, Lloyd Plaza Bldg., 919 NE 19th Avenue, Room 201, Portland, Ore. 97232; Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash. 98109; Spokane Area Office, Room 561, U.S. Court House, West 920 Riverside Avenue, Spokane, Wash. 99201; Walla Walla Area Office, West 101 Poplar, P.O. Box 1518, Walla Walla, Wash. 99362; Eugene District Office, U.S. Federal Building, Room 206, 211 East 7th Street, Eugene, Ore. 97401; Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho 83401; Kalispell District Office (5 miles east of Kalispell on Highway 2), Box 758, Kalispell, Mont. 59901; and the Wenatchee District Office, Room 314, U.S. Federal Building, 301 Yakima Street, Wenatchee, Wash. 98801.

Copies are also available at the following Government Depository Libraries:

## GOVERNMENT DEPOSITORY LIBRARIES

## IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.  
 University of Idaho, Library—U.S. Documents, Moscow, Idaho 83843.  
 Documents Division, Idaho State University Library, Pocatello, Idaho 83209.  
 Boise State College Library, Boise, Idaho 83725.  
 Idaho State Library, 325 West State Street, Boise, Idaho 83702.  
 Ricks College, David O. McKay Library, Rexburg, Idaho 83440.  
 Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.  
 College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.  
 College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.

## MONTANA

Documents Librarian, Montana State University Library, Bozeman, Mont. 59715.  
University of Montana Library, Documents Division, Missoula, Mont. 59801.

## OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oreg. 97520.  
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oreg. 97331.  
University of Oregon Library, Documents Section, Eugene, Oreg. 97403.  
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, Oreg. 97116.  
Eastern Oregon State College Library, Eighth at K Street, La Grande, Oreg. 97850.  
Northus Library, Linfield College, McMinnville, Oreg. 97128.  
Oregon College of Education Library, Monmouth, Oreg. 97361.  
Aubrey B. Watzek Library, Lewis and Clark College, Attention: Reference Department, 0615 SW, Palatine Hill Road, Portland, Oreg. 97219.  
Library Association of Portland, 801 SW Tenth Avenue, Portland, Oreg. 97205.  
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oreg. 97207.  
Eric V. Hauser Memorial Library, Reed College, 3203 SE Woodstock, Portland, Oreg. 97202.  
Oregon State Library, State Library Building, Salem, Oreg. 97301.  
Willamette University Library, 900 State Street, Salem, Oreg. 97301.  
Oregon Supreme Court Library, 12th and State Streets, Salem, Oreg. 97310.

## WASHINGTON

Documents Division, Mable Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Wash. 98225.  
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Wash. 98926.  
Everett Community College Library, 801 Wetmore Avenue, Everett, Wash. 98201.  
Documents Center, Washington State Library, Olympia, Wash. 98501.  
Washington State University Library, Serial-Record Section, Pullman, Wash. 99163.  
Henry Suzzallo Memorial Library, University of Washington, Seattle, Wash. 98105.  
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, Wash. 99362.  
University of Puget Sound, Everill S. Collins Memorial Library, Tacoma, Wash. 98418.  
Eastern Washington State College, John F. Kennedy Memorial Library, Cheney, Wash. 99004.  
Evergreen State College, Daniel J. Evans Library, Olympia, Wash. 98505.  
Seattle Public Library, 1000 Fourth Ave., Seattle, Wash. 98104.  
University of Washington, School of Law Library, 300 Condon Hall, Seattle, Wash. 98105.  
Tacoma Public Library, 1102 Tacoma Ave. South, Tacoma, Wash. 98402.  
Everett Public Library, 2702 Hoyt Ave., Everett, Wash. 98201.  
North Olympic Library System, Library Service Center, 2210 South Peabody, Port Angeles, Wash. 98362.  
Spokane Public Library, Comstock Bldg., West 906 Main Avenue, Spokane, Wash. 99201.  
Port Angeles Public Library, 207 South Lincoln Street, Port Angeles, Wash. 98362.  
Port Vancouver Regional Library, Attn.: Reference Librarian, 1007 East Mill Plain Blvd., Vancouver, Wash. 98663.

A limited number of copies are also available and may be obtained by writ-

ing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. Comments on the draft environmental statement should be sent to the Environmental Manager's Office by November 4, 1977.

Dated: September 1, 1977.

LARRY E. MEIEROTTO,  
Deputy Assistant  
Secretary of the Interior.

[PR Doc.77-26208 Filed 9-8-77;8:45 am]

## Office of the Secretary

[INT DES 77-31]

## PINE CREEK STATE AND NATIONAL SCENIC RIVER

## Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Bureau of Outdoor Recreation has prepared a draft environmental statement for the proposed Pine Creek State and National Scenic River in Pennsylvania.

The environmental statement considers the probable impact of establishing Pine Creek and selected tributaries as a component of the State and National Wild and Scenic Rivers Systems.

Comments are invited and should be submitted to the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, Room 9310, Philadelphia, Pennsylvania 19106, within 45 days. Copies of the draft statement are available for inspection at the following locations:

Office of Communications, Department of the Interior, room 7200, Washington, D.C. 20240, telephone: 202-343-4662.

Office of Information, Bureau of Outdoor Recreation, room 242, Department of the Interior, Washington, D.C. 20240, telephone: 202-343-5726.

Office of the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, room 9310, Philadelphia, Pa. 19106, telephone: 215-597-7995.

Tioga County Planning Commission, Courthouse Annex, Wellsboro, Pa. 16901, telephone: 717-724-1906.

District Forestry Office, 66 Main Street, Wellsboro, Pa. 16901, telephone: 717-724-2868.

Mr. Leonard Hartison, State Parks Office, R.D. 6, Wellsboro, Pa. 16901, telephone: 717-724-3061.

State Parks Office, Little Pine State Park, Waterville, Pa. 17776, telephone: 717-847-3200.

District Forestry Office, 423 East Central Avenue, South Williamsport, Pa. 17701, telephone: 717-326-3576.

Lycoming County Planning Commission, County Courthouse, Williamsport, Pa. 17701, telephone: 717-323-9811 x317.

Single copies are available to the public and may be obtained by writing to the Regional Director, Bureau of Outdoor Recreation, 600 Arch Street, Room 9310, Philadelphia, Pennsylvania 19106. Please refer to the statement number shown above.

Dated: September 2, 1977.

LARRY E. MEIEROTTO,  
Deputy Assistant  
Secretary of the Interior.

[PR Doc.77-26297 Filed 9-8-77;8:45 am]

## DEPARTMENT OF STATE

## Agency for International Development

[Redelegation of Authority No. 99.1.62,  
Amdt. No. 1]

## COUNTRY DEVELOPMENT OFFICER/CHAD

## Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.62 dated November 11, 1974, (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,  
Director.

Office of Contract Management.

[FR Doc.77-26216 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.60, Amdt. No. 1]

## COUNTRY DEVELOPMENT OFFICER/MALI

## Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend

Redelegation of Authority No. 99.1.60 dated November 11, 1974 (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,  
Director.

Office of Contract Management.

[FR Doc.77-26214 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.63, Amdt. No. 1]

## COUNTRY DEVELOPMENT OFFICER/MAURITANIA

## Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.63 dated November 11, 1974, (39 FR 41266), as follows:

(1) The first paragraph is revised to read as follows: "U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows: "The authority herein

delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows: "The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,  
Director.

Office of Contract Management.

[FR Doc.77-26217 Filed 9-8-77;8:45 am]

[Redelegation of Authority No. 99.1.61, Amdt. No. 1]

## COUNTRY DEVELOPMENT OFFICER/UPPER VOLTA

## Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.61 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing, in whole or in part, by said Country Development Officer only to the person designated by the Country Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Country Development Officer, whichever shall first occur. The authority so redelegated by the Country Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,  
Director, Office of Contract  
Management.

[FR Doc 77-26215 Filed 9-8-77; 8:45 am]

[Redelegation of Authority No. 99.1.91]  
**MISSION DIRECTOR, USAID/PAKISTAN**  
Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID/Pakistan, the authority to sign U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director only to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the Mission, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with AID regulations, procedures, and policies in effect at the time the authority is exercised and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to previous delegations are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation heretofore taken by the official

designated in such delegation are hereby ratified and confirmed.

This redelegation of authority shall be effective on the date of signature.

Dated: August 19, 1977.

HUGH L. DWELLEY,  
Director, Office of Contract  
Management.

[FR Doc 77-26213 Filed 9-8-77; 8:45 am]

[Redelegation of Authority No. 99.1.57,  
Amdt. No. 1]

**REGIONAL DEVELOPMENT OFFICER/  
DAKAR**

Redelegation of Authority Regarding  
Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.57 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts and grants and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing, in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,  
Director, Office of Contract  
Management.

[FR Doc 77-26210 Filed 9-8-77; 8:45 am]

[Redelegation of Authority No. 99.1.58,  
Amdt. No. 1]

**REGIONAL DEVELOPMENT OFFICER/  
NIAMEY**

Redelegation of Authority Regarding  
Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.58 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts, grants, and amendments thereto: *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,  
Director, Office of Contract  
Management.

[FR Doc 77-26211 Filed 9-8-77; 8:45 am]

[Redelegation of Authority No. 99.1.59,  
Amdt. No. 1]

**REGIONAL DEVELOPMENT OFFICER/  
YAOUNDE**

Redelegation of Authority Regarding  
Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No.

99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.59 dated November 11, 1974 (39 FR 41267), as follows:

(1) The first paragraph is revised to read as follows:

"U.S. Government contracts, grants, and amendments thereto; *Provided*, That the aggregate amount of each individual contract or grant does not exceed \$50,000 or local currency equivalent."

(2) Delete Paragraph "2." in its entirety.

(3) The third paragraph is revised to read as follows:

"The authority herein delegated may be redelegated in writing in whole or in part, by said Regional Development Officer only to the person designated by the Regional Development Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer or until the redelegation is revoked by the Regional Development Officer, whichever shall first occur. The authority so redelegated by the Regional Development Officer may not be further redelegated."

(4) The fourth paragraph is revised to read as follows:

"The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: August 18, 1977.

HUGH L. DWELLEY,  
Director, Office of Contract  
Management.

[FR Doc. 77-26212 Filed 9-8-77; 8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

#### LETTERS OF CREDIT TO SECURE POTENTIAL COUNTERVAILING DUTY LIABILITY

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the Customs Service will accept letters of credit to secure the payment of possible countervailing duties on certain Japanese electronic products. The procedure is to be used as an alternative to the acceptance of bonds for the potential liability for duties.

EFFECTIVE DATE: September 9, 1977.

#### FOR FURTHER INFORMATION CONTACT:

John E. Elkins, Attorney, Drawback and Bonds Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5856).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

In general, a countervailing duty is an additional duty which is imposed upon imported merchandise after it has been determined that the manufacture, production, or export of that merchandise has benefited directly or indirectly from a bounty or grant (subsidy) bestowed by a foreign government or person.

On April 12, 1977, the United States Customs Court, in *Zenith Radio Corp. v. United States*, C.D. 4691, held that the rebate or forgiveness of the Japanese commodity tax upon the export of certain consumer electronic products from Japan is a bounty or grant within the meaning of the United States countervailing duty law (section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303)). The Court ordered that countervailing duties be ascertained and assessed on the products covered by its decision entered or withdrawn from warehouse for consumption on or after April 13, 1977. Section 516(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(g)), provides for the suspension of liquidation of merchandise covered by such decisions of the Customs Court until final disposition is made of the action. On July 28, 1977, the decision of the Customs Court was reversed by the U.S. Court of Customs and Patent Appeals in *United States v. Zenith Radio Corp.*, C.A.D. 1195. The decision of the Court of Customs and Patent Appeals will be final and conclusive unless modified, vacated, set aside, reversed, or remanded by the U.S. Supreme Court.

As a result of the decision of the Customs Court, the Commissioner of Customs authorized a bonding procedure to be followed until final disposition of the *Zenith* action. The procedure allows importers to obtain delivery of their merchandise prior to the ascertainment and collection of countervailing duties, and at the same time adequately protects the revenue. Under the authority of section 623(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1623(a)), and Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner by specific instruction authorized Customs officers to require a special countervailing duty bond. Under this procedure, the products may be released under a bond to guarantee payment of any countervailing duties that

may be assessed. The bonding requirement went into effect with respect to any of the products entered or withdrawn from warehouse for consumption on or after April 13, 1977.

The Commissioner subsequently determined that an alternate means of securing the possible countervailing duty liability may be permitted without jeopardizing the revenue. The Commissioner has therefore authorized district/area directors of Customs to accept clean irrevocable letters of credit, as an alternative to the bonding requirements, to secure potential countervailing duty liability for merchandise covered by the opinions in the *Zenith* cases.

A clean letter of credit is one that requires no documents to be presented with the draft or demand for payment thereunder. An irrevocable letter of credit, once established in favor of the district/area director, cannot be modified or revoked without the consent of the district/area director.

In order to be accepted by the district/area director, the letter of credit must meet the following requirements:

(a) It must cover entries of a single importer filed in a single district or area.

(b) It must contain a statement indicating the letter of credit will be automatically renewed for additional one-year periods without any affirmative action by the district/area director, unless the provisions of item (c), below, are invoked by the issuing bank.

(c) It must contain a statement indicating that the letter of credit may be terminated by the issuing bank at the end of its term only if the issuing bank submits a written intent of termination by registered mail at least 30 days prior to the expiration date of the letter of credit. If this termination provision is exercised by the issuing bank, the district/area director will immediately draw on the credit in the full amount of the potential countervailing duty liability.

(d) It must contain a statement that the letter of credit is to secure a potential liability for countervailing duties.

(e) It must be submitted in an original and two copies.

(f) The initial term of the letter of credit must be for one year or for any longer period willing to be undertaken by the issuing bank.

(g) The letter of credit must be clean and irrevocable.

(h) If the letter of credit is issued by other than a local bank, it must be confirmed through a local bank.

Further information regarding the letter of credit procedure can be obtained from Customs officers at the port where the merchandise is to be entered.

LEONARD LEHMAN,  
Assistant Commissioner,  
Regulations and Rulings.

[FR Doc. 77-26263 Filed 9-8-77; 8:45 am]

Internal Revenue Service  
**DEPARTMENT OF LABOR**  
 Pension and Welfare Benefit Programs  
 [Application No. D-850]

**CERTAIN TRANSACTIONS INVOLVING THE  
 CENTRAL STATES, SOUTHEAST AND  
 SOUTHWEST AREAS PENSION FUND**

**Pendency of Proposed Exemptions**

**AGENCIES:** Department of the Treasury/Internal Revenue Service and the Department of Labor.

**ACTION:** Notice of pendency of proposed exemptions.

**SUMMARY:** This document contains a notice of pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of several proposed exemptions from certain restrictions imposed by the Internal Revenue Code of 1954 (the Code) and the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemptions were requested in applications filed by The Equitable Life Assurance Society of the United States (Equitable) and Victor Palmeri and Co. Inc. (VPCO) for transactions involving the Central States, Southeast and Southwest Areas Pension Fund (the Fund).

The proposed exemptions, if granted, would affect participants and beneficiaries of the Fund, their employers, the Fund's named fiduciary and investment managers, and other persons participating in the described transactions.

**DATES:** Written comments must be received by the Service on or before September 26, 1977.

A public hearing with respect to the proposed exemptions will be held on September 26, 1977, beginning at 10 a.m. in the Department of Labor Auditorium, Main Building Lobby, 200 Constitution Avenue NW., Washington, D.C. 20016.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics he wishes to discuss, and the time he wishes to devote, by 4 p.m. on September 22, 1977. The statement and outline should be submitted to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT (D-850) Hearing. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of 10 minutes will be the time allotted to each person for making his oral comments. Information with respect to the contents of the agenda may be obtained on September 23, 1977, by telephoning Neil Grossman of the Internal Revenue Service, 202-566-4260. This is not a toll free number.

At the conclusion of the presentation of comments by persons listed in the agenda, to the extent time permits, other comments will be received. The public hearing will be transcribed.

A person wishing to make oral comments at the hearing may do so without

filing written comments. Persons making oral comments should be prepared to answer questions regarding information brought forth in their comments (including written comments, if any).

**ADDRESS:** All written comments (at least six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT (D-850). The applications for exemptions referred to in this notice and all comments relating thereto will be available for public inspection at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. 20234, and the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:**

Neil Grossman of the Internal Revenue Service, 202-566-4260, or Martha McLane of the Department of Labor, 202-523-9141. These are not toll free numbers.

**SUPPLEMENTARY INFORMATION:**

Notice is hereby given of the pendency before the Department and the Service (hereinafter collectively referred to as the Agencies) of applications filed by Equitable and VPCO (hereinafter collectively referred to as the applicants) for exemptions from the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (F) of the Code and from the restrictions of sections 406(a), 406(b), and 407(a) of the Act. The proposed exemptions would apply to a number of transactions involving Equitable, VPCO, entities related to Equitable and VPCO, the Fund's other investment managers, and the Fund as a result of contractual agreements dated June 30, 1977. The proposed exemptions are based on the representations contained in various applications for exemptions on file with the Agencies which are summarized below. Interested persons are referred to the applications for exemptions for the complete representations of the applicants. The applications were filed pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

**BACKGROUND**

Equitable and VPCO have made the following common representations which apply to each proposed exemption.

The Fund is a multiemployer employee benefit plan established and maintained pursuant to collective bargaining agreements between employers and certain affiliated unions of the International Brotherhood of Teamsters. It was established in 1955 by trust agreement, amended from time to time thereafter, by and between Central Conference of Teamsters, Central States Drivers Council, Southern Conference of Teamsters,

and their affiliated local unions, and the Southeastern Area Motor Carriers Labor Relations Association, Southwest Operators Association, National Automobile Transporters Labor Council, Motor Carriers Employers Conference—Central States, Cartage Employers Management Association; Cleveland Draymen Association, Inc., and Northern Ohio Truck Association, Inc. In accordance with section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. section 186(c)(5)), the Fund is jointly administered by ten trustees, consisting of an equal number of employee and employer representatives. The Fund generally covers Teamster employment in 33 states located in the Central, Southeast and Southwest areas of the United States.

The Fund has been the subject of investigation by the Department of Labor, the Department of Justice, the Internal Revenue Service, the Securities and Exchange Commission and other agencies for a period of years. It has also been the subject of numerous Congressional inquiries and hearings. In published statements of government agencies, congressional committees, and the Fund's staff, and in other publicly available information, there has been widespread criticism and allegations of abuse in connection with the management of the Fund's assets.

During the last year, the following governmental actions, among others, have been announced:

By letter dated June 25, 1976, the District Director of the Internal Revenue Service, Chicago District, revoked the Fund's tax exempt status.

Subsequent to the date of the initial revocation letter, the Internal Revenue Service delayed the application of the revocation four times with respect to certain contributing employers, employees, beneficiaries, and survivors of participants of the Fund. During this period, government attorneys and attorneys for the Fund engaged in a series of negotiations on problem areas.

On March 14, 1977, the Service and the Department issued a joint release (USDL 77-232, IR 1775) announcing the resolution of certain issues respecting asset management of the Fund "in a manner that meets the government's objectives." In part, the release stated:

The trustees of the Fund have resolved to delegate to one or more investment managers (as defined in section 3(38) of the Act) the control of all investments of the Fund.

Based on this and other matters announced, and subject, among other things, to the engagement of professional investment managers, the Service said that it would issue a determination letter requalifying the Fund and the Department said that it would terminate that portion of its investigation relating to procedures of the Fund respecting asset management.

Subsequently, on April 26, 1977, the Service issued a determination letter requalifying the Fund for tax years beginning after December 31, 1976, subject to a number of conditions, including, among others, the following:

1. The Fund completing by May 1, 1978 an examination of all loans and related financial transactions entered into by the Fund from February 1, 1965 to April 30, 1977. The results of this examination, including all background information, conclusions and recommendations will be submitted to unrelated independent professionals to determine if the Fund has an enforceable cause of action or other recourse arising from the transactions. These independent professionals may require the Fund to produce, or may themselves otherwise obtain, such additional information concerning these transactions as they deem necessary to make their determination. The completed reports and recommendations for each transaction will be available to the IRS no later than the 5th working day of each month, summarizing progress on this activity.

2. The Trustees placing all Fund assets and receipts, including funds derived from liquidation of existing investments (except funds reasonably retained by the Fund for (a) payment of plan benefits and (b) payment of administrative expenses), under direct continuing control of independent professional investment managers as defined by section 3(38) of ERISA. The Trustees will adopt appropriate amendments to the trust agreement to accomplish this condition and will expeditiously transfer the assets to the investment managers. Recognizing the complexities of the large investment portfolio, the completion date for accomplishing delivery of the investment assets will be no later than December 31, 1977. However, the securities-related assets and the majority of the real estate-related assets will be made available to the investment managers for inspection, documentation and evaluation no later than June 30, 1977.

During this period, officials of the Fund were actively attempting to secure independent, professional investment managers. The selection of independent investment managers for the Fund was regarded by the government as a crucial objective of governmental demands upon representatives of the Fund. Representatives of the Department were continually apprised of the progress of the negotiations. Ultimately, on June 17, 1977, the trustees of the Fund announced their selection of Equitable as named fiduciary for the Fund and Equitable, VPCO, and others as investment managers.

Equitable is a mutual life insurance company whose principal office is located at 1285 Avenue of the Americas, New York, N.Y. 10019. Its Employer I.D. No. is 13-5570651. It is a New York corporation subject to the insurance laws of New York, and it is registered as an investment adviser under the Investment Advisers Act of 1940. Equitable is the third largest life insurance company in the United States; as of December 31, 1976, its assets were a total of \$22,430,472,618. Prior to its execution of the June 30, 1977 contracts, with a minor exception described below, it had no affiliation or relationship with the Fund.<sup>2</sup>

VPCO is a corporation which has provided executive management services to various businesses and whose application

<sup>2</sup>The minor exception involves a ground lease between the Fund and Equitable which arose because of a mortgage foreclosure between Equitable and an unrelated third party.

for registration as an investment adviser under the Investment Advisers Act of 1940 is currently pending. It is presently managing assets and operating companies valued at more than \$1,500,000,000, including all the non-rail assets and operating companies of the Penn Central Transportation Co. and those of Levitt and Sons, Inc. It has a principal office at 2021 K Street NW., Washington, D.C. 20006; its Employer I.D. No. is 95-2644662. Prior to its execution of the June 30, 1977 contracts, with a minor exception described below, it had no affiliation or relationship with the Fund.<sup>2</sup>

To effectuate the independent, professional management of the Fund's assets, the trustees of the Fund entered into a series of agreements with Equitable, VPCO, Lazard Freres and Co. (Lazard), Mercantile National Bank at Dallas (Mercantile), and Crocker Investment Management Corp. (CIMCO).

The agreements establish a framework whereby Equitable will serve as named fiduciary of the Fund, having responsibility for, among other things, monitoring, appointing, and removing investment managers (other than VPCO) and custodians, allocating available investment funds among different types of investments and different investment managers, and developing and implementing investment objectives and policies. Equitable, Lazard, Mercantile, and CIMCO will be appointed investment managers for securities-related assets, with each to receive, as determined by Equitable, an initial allocation of approximately one-fourth of the total market value of the securities-related assets held by the Fund, and with the restriction that the securities-related assets initially allocated to Equitable for its management will have a value of approximately one-fourth of the total market value of the securities-related assets as of the closing date and that Equitable will be allocated one-fourth of such additional funds as may become available for new investment in securities-related assets. Equitable and VPCO will be appointed investment managers for real estate-related assets, with Equitable generally responsible for property situated east of the Mississippi River and VPCO generally responsible for property situated west of the Mississippi River. However, Equitable and VPCO may agree to reallocate property between themselves, any such reallocation may result in a corresponding reallocation of their management fees. In the performance of their functions as investment managers for the real estate-related assets, Equitable and VPCO or companies related to

<sup>2</sup>The minor exception involves a loan made by the Fund in 1963 (and refinanced in 1974) to an independent third party to finance a hotel, secured by the hotel property and by guarantees of the third party. In 1976, a limited partnership, in which two executives (one also a stockholder) of VPCO have interests, purchased the hotel, subject to the Fund mortgage on which the third party remains liable.

either may provide goods or services to the Fund. In the event that the Fund holds assets other than securities-related and real estate-related assets, Equitable will be authorized to appoint an investment manager for such other assets, which may include itself or VPCO. The trustees will retain all authority not vested in Equitable, the investment managers, and the custodians, including responsibility for the management of the Benefits and Administration Account and the concomitant power to cause Equitable to provide for the transfer of available investment funds to the Benefits and Administration Account for the purpose of paying benefits and administrative expenses of the Fund.

The fees paid to each of the investment managers for securities-related assets will be based on a percentage of the value of the assets under its management. Equitable and VPCO, as investment managers for real estate-related assets, will receive annual fees of \$1,900,000 and \$3,100,000, respectively. Equitable's fee for serving as named fiduciary will be based on a percentage of the Fund's assets under the management of all the investment managers except Equitable.

The appointment of Equitable as named fiduciary and Equitable and VPCO as investment managers can only be terminated during the first five years by the trustees "for cause" and with the consent of the Secretary of Labor.

These agreements are now scheduled to take effect on October 3, 1977, which has been established as the closing date for most of the above arrangements. However, this date may be extended by Equitable or VPCO if either determines that it has not received all necessary rulings, exemptions, and opinions of governmental authorities. The trustees of the Fund may rescind the agreements if the closing date does not occur on or before November 1, 1977.

The Department and the Service will play a continuing role after the agreements become effective. As set forth in the agreements, the Department has established a special task force for the purpose of providing assistance and guidance to the investment managers and protecting the interests of participants and beneficiaries of the Fund. In addition, Equitable and VPCO will, through reports, the subject and nature of which are specified below, provide the Department and the Service with the opportunity to review certain aspects of their activities as named fiduciary and investment managers. The Agencies will review these reports and, if circumstances warrant, take appropriate action to protect the interests of the Fund and its participants and beneficiaries. For example, see sections 9.02 and 9.03 of Rev. Proc. 75-26, 1975-1, C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The reports submitted to the Department will be available for public inspection at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4677, U.S. Department

of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice of the pending exemptions as published in the FEDERAL REGISTER will be sent by certified mail within 3 days of publication in the FEDERAL REGISTER to each current trustee and to each employer association and employee organization which is a signatory to the trust agreement.

#### PROPOSED EXEMPTIONS

The applications contain certain representations which are specifically applicable to each of the proposed exemptions which are summarized below. Interested persons are referred to the applications and supporting documents on file with the Agencies for the complete representations of the applicants. Each part set forth below contains a summary of the specific representations which are applicable to the particular proposed exemption followed by the proposed exemption.

#### PART I.—ALLOCATION BY EQUITABLE OF SECURITIES-RELATED ASSETS AMONG THE INVESTMENT MANAGERS

*Summary of representations.* Under the agreements, each of the securities investment managers will be initially allocated approximately one-fourth of the value of the Fund's securities-related assets. Equitable in its capacity as named fiduciary will make the initial allocation of securities-related assets among the investment managers, including itself. In so doing, Equitable will allocate to itself securities-related assets valued at approximately one-fourth of the total value of all such assets held by the Fund. However, Equitable will determine which securities-related assets will be allocated to each manager.

In addition, under the agreements, Equitable has exclusive responsibility and authority to appoint and remove any securities investment manager and to increase or decrease the portion of the securities-related assets allocated to each investment manager (except that Equitable will be allocated approximately one-fourth of all securities-related assets initially allocated and one-fourth of any additional funds as may become available for new investment in securities-related assets). Further, Equitable is authorized, subsequent to the initial allocation of securities-related assets, to name additional or substitute investment managers for any or all of the Fund's securities-related assets.

Within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary which will include a report concerning the initial allocations of any securities-related assets. Any report concerning the allocation of securities-related assets will contain the following information:

(a) A list of the securities-related assets each manager has received,

(b) A description of how Equitable valued the securities-related assets,

(c) A description of the allocation plan,

(d) The reason for adopting the particular method of allocation, and

(e) Any other information the trustees may request.

As part of their overall responsibility under the agreements for monitoring the performance of Equitable in its capacity as named fiduciary, the trustees of the Fund are required to monitor the actions of Equitable in initially allocating securities-related assets. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

*Pending exemption.* Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to Equitable's initial allocations of the securities-related assets among the investment managers.

#### PART II.—EQUITABLE'S AUTHORITY TO DEVELOP AND IMPLEMENT INVESTMENT OBJECTIVES AND POLICIES FOR THE FUND

*Summary of representations.* Under the agreements, Equitable as named fiduciary is responsible for developing and implementing short-term and long-term investment objectives and policies for the Fund. These objectives and policies are to be developed by Equitable with appropriate regard for the actuarial requirements of the Fund and will be submitted for review by the trustees on a regular basis. Each investment manager, including Equitable, is required to follow the investment objectives and policies established by Equitable.

In addition, within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary which will include a report as to the development and implementation of the investment objectives and policies of the Fund.

As part of their overall responsibility under the agreements for monitoring the performance of Equitable in its capacity as named fiduciary, the trustees of the Fund are required to monitor the actions of Equitable in developing and implementing the objectives and poli-

cies that the trustees have reviewed. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

*Pending exemption.* Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to Equitable's development and implementation of short-term and long-term investment objectives and policies for the Fund.

#### PART III.—EQUITABLE'S AUTHORITY TO DIRECT THE INVESTMENT MANAGERS TO PROVIDE FUNDS FOR THE BENEFITS AND ADMINISTRATION ACCOUNT

*Summary of representations.* The Benefits and Administration Account (the Account) contains assets of the Fund needed for the payment of pension benefits and the Fund's administrative expenses. The Account is managed by the Executive Director of the Fund, who has no affiliation or relationship with Equitable; neither Equitable nor any of the investment managers has any responsibility for managing, or supervising the management of, the assets of the Account.

Generally, money for the Account will be derived from two sources: employer contributions and income earned by the Fund on its real estate and mortgage investments which is not needed to offset the Fund's expenses in managing such investments. Although the influx of money from these sources should ordinarily be sufficient to pay pension benefits and the Fund's administrative expenses, it is conceivable that additional money may be needed for the Account at some time in the future. In such a case, the Fund's Executive Director is authorized to request Equitable to transfer additional funds to the Account, and, under the agreements, Equitable can comply with the request by directing the investment managers, including itself and VPCO, to liquidate assets and transfer money to the Account. Equitable, acting on its own, has no authority to initiate a transfer of assets to the Account.

Although the likelihood of such a transfer is remote, if requested, Equitable will determine the best source of funds from which to make the transfer. If Equitable decides to make a transfer

from the Fund's securities-related assets, Equitable will supply 25 percent of the assets and the other securities managers will supply the remaining 75 percent. If Equitable decides to transfer real estate-related assets, it has the authority to decide on the basis of the best interests of the Fund what portion will be provided by VPCO and what portion by Equitable. Under the agreements of June 30, 1977, within 45 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees a report concerning its services and activities as named fiduciary, which will include a report explaining the reasons for any such transfer. The trustees are required under the agreements to monitor the actions of Equitable as a named fiduciary, which includes any direction to make payments to the Account. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly report of the calendar year is submitted to the trustees.

**Pending exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to Equitable's determination of which assets to liquidate in order to provide the Account with additional funds.

#### PART IV.—PROVISION OF SERVICES UNDER THE CONTRACTUAL ARRANGEMENTS

**Summary of representations.** Prior to the execution of these agreements, neither, Equitable nor VPCO was a disqualified person (party-in-interest) with respect to the Fund. Under the new arrangements, however, both Equitable and VPCO will be required to perform a number of services for the Fund. For instance, in addition to acting as investment manager, Equitable, in its capacity as named fiduciary, will monitor the performance of the other investment managers, including VPCO, and will develop general investment objectives and policies to be followed by the other investment managers. Similarly, VPCO will serve as investment manager for a portion of the Fund's real estate-related assets and will also make an evaluation of the asset management staff.

Further, under the agreements, Equitable and VPCO are required to perform

a preliminary physical inspection and examination of the documentation relating to the real estate-related assets as soon as practicable after the execution of the agreements (dated June 30, 1977), and are required to use their best efforts to complete the inspection and documentation within 90 days after the closing date. Equitable and VPCO began performing services in accordance with this provision of the agreements immediately upon the execution of the agreements.

Equitable and VPCO assert that the services to be provided under the new arrangements are necessary for the operation of the Fund and that no more than reasonable compensation will be paid for such services. Further, they assert that the contracts for the provision of services are reasonable, notwithstanding their limited terminability provisions. Under the agreements, neither Equitable nor VPCO may be dismissed during the first five years of the agreements, except "for cause" and with the consent of the Secretary of Labor. Nor may the contractual terms of the agreements be terminated, modified, or amended for five years without the consent of Equitable or VPCO.

Equitable and VPCO assert that while these provisions for limited terminability are unusual, they are appropriate under the circumstances of this case. They also assert that the provisions are consistent with the Agencies' objectives of preventing the trustees from quickly reasserting control over the Fund and of ensuring the protection of the Fund's participants by means of independent, professional investment management during the next five years. Finally, they note that in the event of the termination for cause or resignation by Equitable or VPCO, the recurring fees payable to the party being terminated or resigning will be prorated to the effective date of the termination or resignation. Thus, should a termination or resignation occur, the Fund will not be penalized by reason of these provisions.

**Pending exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective June 30, 1977, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of section 4975(c)(1)(C) of the Code and the restrictions of section 406(a)(1)(C) of the Act shall not apply to the execution of the new agreements by Equitable and VPCO or to their performance of services under those agreements.

#### PART V.—PROVISION OF "SUPPLEMENTAL SERVICES" BY EQUITABLE AND VPCO

**Summary of representations.** Under the agreements, the Fund will pay Equitable and VPCO an annual fee for the management of the Fund's real estate-related assets. This fee, plus an initial

"start-up fee," is compensation for "basic services" that Equitable and VPCO will provide. With respect to the inspection, documentation, and evaluation of assets prior to acceptance for management, "basic services" will include the following:

- (a) Examination of all items of documentation delivered.
- (b) Examination of additional documents determined to be relevant and necessary for an adequate understanding of the assets and the Fund's interests therein.
- (c) Arranging for, as appropriate, legal advice and opinions in order to clarify, insofar as possible, the existence, extent, and status of the Fund's interest in each asset.
- (d) Conducting on-site inspections of each property and real estate project owned by the Fund, the operations of each operating business owned by the Fund, and the tangible asset and, where necessary and appropriate, operations securing obligations owing to the Fund.
- (e) Organization and analysis of all of the information obtained from the foregoing items, and verification of the existence and condition of each asset, and otherwise completion of all documentation and inspection.
- (f) Preparation of Valuation Files (with a recommended valuation) for each asset, where required, containing such materials and documents as are ordinarily and customarily employed in the evaluation of such asset, and arranging for, where deemed necessary and appropriate for such purpose, legal advice and opinions, appraisals, accounting analyses, audits, market and economic studies, land use and planning, engineering and architectural advice.

With respect to real estate-related assets accepted for management, "basic services" will include the following general management services:

- (a) Supervision of the provision of all servicing and related accounting for each loan and receivable, including supervision of collection and supervision of payment of taxes, assessments and insurance premiums where required.
- (b) Review and refinement, development and implementation, where necessary, of accounting and management information systems for the general loan portfolio sufficient to provide appropriate management controls and the preparation of required periodic reports to the fiduciary, the trustees and governmental agencies.
- (c) Monitoring compliance with terms of each loan.
- (d) Physical inspection on a regular basis of any collateral securing each loan.
- (e) Periodic evaluation of each loan and determination of whether it should be "classified" and whether reserves or additional reserves are necessary or appropriate, all under statutory requirements.
- (f) Development and implementation of actions and strategies to be taken with respect to loans in default.
- (g) Negotiating with borrowers, where appropriate, with respect to restructuring defaulted loans or refinancings.
- (h) Determining and supervising any appropriate legal steps to be taken in order to protect the interests of the Fund in each loan and other receivable.
- (i) Directing and supervising the management of all properties, projects and business operations owned or otherwise controlled by the Fund (Controlled Assets), including the replacement of employees, contractors and consultants employed by the

individual projects or operations for work on those specific projects or operations.

(j) Supervision of the review and refinement, development and implementation, where necessary, of accounting and management information systems for the Controlled Assets sufficient to provide appropriate management controls for these assets and the preparation of required periodic reports to the fiduciary, the Fund trustees and governmental agencies.

(k) Supervision of the development of annual operating plans for each Controlled Asset including cash controls and forecasts, operating programs and budgets, capital expenditures and marketing or leasing strategies where appropriate.

(l) Physical inspection of each of the Controlled Assets on a regular basis.

(m) Periodic evaluation of each of the Controlled Assets and determination of whether reserves or additional reserves are necessary or appropriate under statutory requirements.

(n) Supervision of the employment and retention of those providing "supplemental services."

Under the agreements, Equitable, in its capacity as investment manager for real estate-related assets, or VPCO each may provide "supplemental services" to the Fund or cause such "supplemental services" to be provided to the Fund by other persons or companies, including those in which it or any of its officers, directors, or shareholders has a financial interest of 5 percent or more (hereinafter collectively referred to as related companies). The cost of "supplemental services" will not be covered by the fees paid for "basic services," but rather will be provided at an additional cost to the Fund. "Supplemental services" are defined to include the following:

(a) In relation to a specific asset, including its valuation, the contractual work of architects, attorneys, accountants, appraisers, auditors, brokers, collection agents, engineers, insurance agents, land planners, market and economic analysts, surveyors and zoning experts.

(b) Direct operating, project management and property management activities related to a specific managed asset, including the activities of employees, contractors, managers and consultants employed by an individual project or operation for work on such projects or operation.

(c) To the extent not included in the above, the leasing or selling of a specified managed asset including marketing, advertising and brokerage services, and the making of any additional investments, repairs and improvements in such assets to the extent permitted; and the payment of expenses associated with management of specific managed assets, including but not limited to property taxes, title insurance, surveys, interest and other similar expenses.

Equitable and VPCO will be initially responsible for determining whether a service that it or one of its related companies will provide is "supplemental" or "basic".

It is Equitable's and VPCO's current intention not to use related companies to provide "supplemental services" to the Fund. However, it is possible that Equitable or VPCO might use a related company to provide "supplemental services" in the future.

If a "supplemental service" is performed by Equitable, VPCO, or a related company, the cost to the Fund will be the direct salary and related benefit costs of the employees performing such "supplemental service". In calculating direct salary and related benefit costs, only the actual time spent by personnel of Equitable or VPCO will be considered. Time spent by executives generally responsible for the operations of Equitable or VPCO will not be considered at all. Direct salary costs will be determined by multiplying the periodic salary actually paid to an employee by the percentage of such employee's time during that period actually spent on providing the "supplemental service". Related benefit costs represent those additional amounts actually contributed by Equitable or VPCO for pension, health, and other benefits, and will be prorated in the same manner as direct salary costs. In no event will Equitable or VPCO receive compensation in excess of direct salary and related benefit costs in connection with the provision of "supplemental services" to the Fund by Equitable, VPCO or any related company; however, a payment might be made from a related company to Equitable or VPCO as a result of the provision of "supplemental services" to the Fund by the related company. In addition, if a related company performs any "supplemental service", it will not receive any compensation from unrelated third parties with respect to the performance of such "supplemental service". Further, if "supplemental services" are provided to the Fund by unrelated third parties, neither Equitable, VPCO or any related company will receive any compensation in connection therewith.

Pursuant to the agreements of June 30, 1977 Equitable and VPCO are required to render certain reports with respect to the provision of "supplemental services". Whenever Equitable or VPCO provide, or arrange for any party to provide, a "supplemental service", Equitable is required to provide the trustees and VPCO is required to provide Equitable and the trustees with the following information:

(a) The name and qualifications of the party retained to provide the service,

(b) A description of the service to be provided,

(c) A description of the fees to be paid, and

(d) Any other information that is requested by the trustees.

Such reports will also include an explanation of why the service is necessary.

Further, within 30 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees and VPCO is required to render to Equitable and the trustees a report concerning its services as an investment manager, which will include a report concerning the provision of any "supplemental service" provided to the Fund. Equitable is also required to provide the trustees with a quarterly report of the fees that it or any of its

related companies received from the Fund for "supplemental services". Similarly, VPCO is required to provide both Equitable, in its capacity as named fiduciary, and the trustees of the Fund with a quarterly report of the fees that VPCO or any of its related companies have received from the Fund for "supplemental services".

Equitable, as named fiduciary, and the trustees are required under the agreements to monitor the actions of VPCO as investment manager, in providing, or arranging for the provision of, any "supplemental services" to the Fund by VPCO or its related companies. As part of their responsibility under the agreements to monitor the performance of Equitable as an investment manager, the trustees are required to monitor the actions of Equitable in providing, or arranging for the provision of, any "supplemental services" to the Fund by Equitable or its related companies. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable and VPCO will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time the first quarterly report of the calendar year is submitted to the trustees.

*Pending Exemption.* Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975(a) and (b) of the Code by reason of section 4975(c)(1)(C), (D), (E) and (F) of the Code and the restrictions of sections 406(a)(1)(C), 406(a)(1)(D), and 406(b) of the Act shall not apply to the provision of "supplemental services" by Equitable, VPCO or related companies to the Fund and their receipt of compensation for such "supplemental services" from the Fund, or to the determination by Equitable or VPCO that a particular service is "supplemental" rather than "basic".

#### PART VI.—REALLOCATION OF REAL ESTATE-RELATED ASSETS BETWEEN EQUITABLE AND VPCO

*Summary of Representations.* Although the investment management responsibility over real estate-related assets will be allocated pursuant to the agreement, under certain conditions Equitable and VPCO will be permitted to make changes in the initial allocation. During the term of the agreements, however, all real estate-related assets will be managed by either Equitable or VPCO.

In general, under the initial allocation, Equitable will be given responsibility for the management of real estate-related assets located east of the Mississippi River, and VPCO will manage the real

estate-related assets located west of the Mississippi River.

The Fund will pay a fixed fee for real estate investment management. Under the agreements, Equitable will receive a one-time start-up fee of \$500,000 and an annual fee of \$1,900,000. VPCO will receive a start-up fee of \$900,000 and an annual fee of \$3,100,000.

The agreements permit the initial allocation described above to be changed during their term by reallocation between Equitable and VPCO. Reallocations may be made only if both Equitable and VPCO agree that the reallocation of responsibility would not be adverse to the interests of the Fund. Neither Equitable nor VPCO is required to accept management responsibility over any real estate-related asset the management of which the other is seeking to reallocate.

In the event of a reallocation, an appropriate adjustment in the real estate management fees may be made between Equitable and VPCO to reflect the change. The total annual fee of \$5,000,000 for real estate management will not change as a result of any reallocation. Because Equitable's fee for serving as named fiduciary for the Fund is computed on the basis of only those assets which it does not manage, the fee for serving as named fiduciary may increase or decrease as a result of any reallocation.

A complete analysis of the Fund's real estate-related assets was not available on June 30, 1977 and, given the size of the fund's portfolio, an accurate listing will take some time. As a result, it is not possible for Equitable and VPCO to make all appropriate allocations of real estate-related assets either at the closing date or upon their acceptance of such assets for management. Accordingly, Equitable and VPCO believe that it is not only desirable to permit adjustments at a later date when they can be made on the basis of the manager's knowledge of the individual properties and the portfolio as a whole, but also in the interests of sound professional investment management.

Under the agreements, within 30 days following each calendar quarter (or such other three month period as the trustees shall designate in writing), Equitable is required to render to the trustees and VPCO is required to render to Equitable and the trustees a report concerning its services as an investment manager, which will include a report concerning any reallocation of real estate-related assets. As part of their responsibility under the agreements to monitor the performance of Equitable and VPCO, the trustees are required to monitor the actions of Equitable and VPCO in reallocating any real estate-related asset. Beginning with the first quarterly report submitted to the trustees subsequent to January 1, 1978, Equitable and VPCO will submit to the Agencies for their review annually copies of the reports which were submitted to the trustees during the prior twelve months. Such annual reports will be submitted to the Agencies at the same time that the first quarterly re-

port of the calendar year is submitted to the trustees.

**Pending Exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(D) and (E) of the Code and the restrictions of sections 406(a)(1)(D) and 406(b)(1) of the Act shall not apply to the reallocation between Equitable and VPCO of investment management authority over any real estate-related asset and to any resulting adjustments in the investment management fees for the real estate-related assets.

#### PART VII.—LEASE OF OFFICE SPACE BY VPCO

**Summary of Representations.** Under the agreements, investment management authority over the Fund's real estate-related assets is given exclusively to Equitable and VPCO and allocated between them in the manner described above. As soon as practicable, the trustees are obligated to deliver to the custodian certain items of documentation relating to each real estate-related asset. These documents are then to be made available to Equitable or VPCO, as the case may be, which is directed to conduct a physical inspection of each asset to be managed by it, to verify the existence and condition of each asset, and to determine the need for such additional documentation as it considers appropriate.

In general, each investment manager's inspection and documentation of each asset is to be completed prior to its acceptance of the asset for management. Where the documentation has not been completed prior to the closing date of the agreements, Equitable and VPCO shall each use its best efforts to complete the process within 90 days thereafter.

At the time this application was filed, VPCO had not received a complete listing of the real estate-related assets located west of the Mississippi River, but it believes that these assets consist largely of loans secured by real property. The documents pertaining to these loans are on file at the Fund's headquarters in Chicago, Ill. In order to assume management responsibility for these assets and to comply with its contractual obligations regarding inspection and documentation, it is necessary for VPCO to inspect and copy the documents filed in Chicago. VPCO estimates that this process will take several months.

VPCO is also obligated to undertake and complete a study of the Fund's asset management staff with a view to determining the extent to which, and the basis upon which, the staff's functions should continue to be performed by the staff.

In view of its obligation to inspect and copy documents on the Fund's real estate-related assets and its obligation to complete a study of the Fund's asset management staff, VPCO must occupy space during this period at or near the Fund's headquarters. Because the Fund's headquarters is not centrally located with respect to other office space, VPCO desires to occupy space in the building owned by and headquartering the Fund on a short-term basis. VPCO will pay rent to the Fund for this space at the same rate per square foot as other commercial tenants in the building pay.

**Pending exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective July 1, 1977, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) of the Code and the restrictions of section 406(a)(1)(A) of the Act shall not apply to VPCO's lease of office space from the Fund on a short-term basis.

#### PART VIII.—ADJUSTMENT AND/OR CONTINUATION BY INVESTMENT MANAGERS OF ANY LOAN, LEASE, SERVICE AGREEMENT, OR OTHER ARRANGEMENT, OR THE HOLDING BY THE FUND OF ANY EMPLOYER SECURITY OR REAL PROPERTY

**Summary of representations.** Because the process of delivering asset schedules, inspecting and verifying assets, determining the acceptability of assets for management, and allocating assets among managers had just begun at the time this application was filed, Equitable, VPCO, and the other investment managers have no significant first-hand knowledge concerning the assets of the Fund that they will manage. However, the Annual Report for the Fund for the fiscal year ending January 31, 1976, indicates that there were approximately 30 transactions involving the Fund's assets with a person known to be a party in interest (with a current value of \$43,400,000) and approximately 74 loans and leases currently uncollectable or in default.

The primary goal of the investment managers is to preserve the viability of the Fund by obtaining the best financial results for the Fund consistent with prudent management, given the assets which the investment managers inherit for management and the needs of the Fund. The investment managers must make decisions with respect to each asset on the basis of financial considerations without regard to whether the asset may once have been the subject of a prohibited transaction. Accordingly, the investment managers intend to accept loans and other real estate-related assets without regard to whether another party to the loan or other real estate-related transaction is or may be a party in interest or a disqualified person and with-

out any investigation as to whether there is or may be a past or ongoing prohibited transaction related to the asset.

Where a party in interest transaction is brought to the attention of Equitable, VPCO, or another investment manager, it may be in the interest of the Fund and its participants and beneficiaries to permit the investment manager to determine whether it is prudent to rescind, modify, or continue the arrangement. Additionally, where Equitable, VPCO, or another investment manager determines that it would be prudent and in the best interests of the Fund to continue existing arrangements with parties in interest or disqualified persons, but not in accordance with their current terms, that investment manager may wish to adjust existing arrangements in order to achieve, on behalf of the Fund, the most favorable investment results obtainable under the circumstances. In such case, any adjustments will be made pursuant to a written agreement executed or authorized by the investment manager responsible for the management of the Fund asset or the arrangement related to the Fund asset. Also, Equitable and VPCO expect to be "working-out" troubled loans with various parties, some of whom will be parties in interest or disqualified persons.

In the absence of an exemption for the continuation or adjustment of prior prohibited transactions, Equitable, VPCO, and the other investment managers would not be permitted the type of flexibility necessary to make decisions that are in the best interests of the Fund. Further, the burden of investigating whether previously entered transactions constitute a violation of the prohibited transactions rules would be enormous and to a large extent duplicative where, as in this case, a procedure has already been established for an investigation of past loan transactions.

**Pending exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code and the restrictions of sections 406(a) and 407(a) of the Act shall not apply to:

(1) The continuation of any loan, lease, service agreement, or other arrangement, or the continued holding of any employer security or real property, which is or relates to a plan asset of the Central States, Southeast and Southwest Areas Pension Fund, or

(2) The adjustment of the terms of any loan, lease, service agreement, or other arrangement (and all acts necessary and proper to the carrying out of such arrangement in accordance with its terms as adjusted), which is or relates to a plan asset of the Central States, Southeast and Southwest Areas Pension Fund: *Provided*, That any adjustment is made pursuant to a written agreement executed or authorized by the invest-

ment manager responsible for the management of the Fund asset or the arrangement related to the Fund asset.

If granted, the proposed exemption would apply to the following persons:

(1) An investment manager of Fund assets whose management commenced on or after October 3, 1977, to the extent that such person, as investment manager, caused the Fund to engage in the continuation or adjustment described above, and

(2) Any party in interest or disqualified person involved in the transaction, but only if the existence of a prohibited transaction is brought to the attention of the investment manager described in the preceding clause as a result of a formal notification by an agency of the United States Government, a final order of a United States Court, or an acknowledgment in writing communicated to the investment manager of such prohibited transaction by the party in interest or disqualified person involved in the transaction, and

(a) The investment manager affirmatively determines that the continuation or modification (other than a rescission or termination) is in the best interest of the Fund, and

(b) Such determination is promptly communicated in writing by the investment manager to the Department of Labor and the Internal Revenue Service.

If granted, the proposed exemption would be effective as to the investment managers on the date of the closing pursuant to the agreements with respect to the assets for which management was assumed on or after the closing date and as to a party in interest or disqualified person involved in the transaction on the date that the investment manager communicates to the Agencies in writing (pursuant to section (2)(b) above) its determination that the continuation or modification of the transaction is in the best interest of the Fund.

#### PART IX.—NEW TRANSACTIONS WITH CERTAIN PARTIES IN INTEREST AND DISQUALIFIED PERSONS

**Summary of representations.** The Annual Report of the Fund for the fiscal year ending January 31, 1976, indicates that the Fund held, among its assets, over \$97,000,000 of commercial paper or other corporate debt; over \$96,000,000 of common stock consisting of shares of approximately 120 corporations; over \$114,000,000 of real estate consisting of land, air rights, various buildings, including one or more shopping centers, hotels and/or motels, and office buildings; and approximately 500 mortgage notes and collateral loans with an assigned current value of \$832,000,000. In addition, the Report indicates that, during the plan year, the Fund had 167 service providers and 16,300 contributing employers. Taking into account affiliated corporations and partnerships, there appear to be an immense number of persons who are parties in interest or disqualified persons with respect to the Fund by virtue of their status as service providers, contributing employers, or persons related to service providers or contributing employers. Thus, because of the magnitude of the Fund's assets and the immense number of parties in inter-

est and disqualified persons with respect to the Fund, the management of its assets will inevitably, and perhaps inadvertently, result in transactions which are prohibited by the Code and the Act.

If an investment manager causes the Fund to engage in a transaction with a service provider with respect to the Fund and any other person which is a party in interest or disqualified person solely by virtue of a relationship to such service provider (other than a trustee, administrator or investment manager with respect to the Fund and any other person which is a party in interest or disqualified person by virtue of a relationship to such trustee, administrator, or investment manager), who at the time of the transaction such investment manager actually knows is a party in interest or disqualified person with respect to the Fund, it will submit to the Agencies a report concerning the transaction. The report will be submitted to the Agencies annually with the copies of the quarterly investment manager reports submitted to the trustees and will include a description of the transaction, the identification of the party in interest or disqualified person and its relationship to the Fund, and an explanation of why the transaction is in the interest of the Fund and its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Fund.

**Pending exemption.** Based on the application described herein, the Agencies have under consideration the granting of an exemption, effective the date of the closing pursuant to the agreements and five years thereafter, under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), so that the taxes imposed by sections 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code and the restrictions of sections 406(a) and 407(a) of the Act shall not apply to any transactions between or involving the Fund and any of the following persons:

(1) A service provider with respect to the Fund and any other person which is a party in interest or disqualified person solely by virtue of a relationship to such service provider (other than a trustee, administrator, or investment manager with respect to the Fund and any other person which is a party in interest or disqualified person by virtue of a relationship to such trustee, administrator, or investment manager).

(2) An employer (treating employers who are of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563 (a)(4) and (e)(3)(C) of the Code as one employer) whose contributions for the preceding plan year did not exceed five percent of the total employer contributions paid to or under the Fund for that year, or

(3) Any other person which is a party in interest or disqualified person solely by virtue of a relationship to such employer

*Provided*, That the transaction is no less favorable to the Fund than the terms

that would be obtained in an arm's-length transaction with an unrelated party. *And provided*, That where the transaction involves a person described in (1) above whom the investment manager actually knows to be a party in interest or disqualified person with respect to the Fund, it shall have determined prior to causing the Fund to engage in the transaction that the transaction is in the interest of the Fund and its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the Fund.

The pending exemptions, if granted, will be subject to the express conditions that the material facts and representations contained in the applications are true and complete.

#### GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other disqualified person or party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Agencies must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(3) The pending exemptions, if granted, are supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) All interested persons are invited to submit written comments on the pending exemptions contained herein to the address and within the time period set forth above. The applications for exemption referred to herein and all comments relating thereto will be open to public inspection at the addresses set forth above.

(5) The Agencies will hold a public hearing on the pending exemptions at the time and address set forth above. All

interested persons who desire to present oral comments at the hearing should comply with the procedures set forth above.

Signed at Washington, D.C., this 8th day of September 1977.

ALVIN D. LURIE,  
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

J. VERNON BALLARD,  
Deputy Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc.77-26530 Filed 9-8-77; 11:08 am]

### INTERSTATE COMMERCE COMMISSION

[No. 477]

#### ASSIGNMENT OF HEARINGS

SEPTEMBER 6, 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 46879 Sub No. 12 Waiters Transit Corp., now being assigned December 20, 1977 (3 days) at Newark, New Jersey, in a hearing room to be later designated.

MC 135874 (Sub-No. 75), LTL Perishables, Inc., now being assigned November 29, 1977, (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 142855 (Sub-No. 1), Wiersema Charter Service, Inc., now being assigned for November 30, 1977 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 123980 (Sub-No. 4), Mandus R. Olson, now being assigned December 5, 1977 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 115763 (Sub-No. 368), Carl Subler Trucking, Inc., and MC 119726 (Sub-No. 81), N. A. B. Trucking, Inc., now being assigned December 6, 1977 (1 day), at Memphis, Tenn., in a hearing room to be later designated.

MC 138177 (Sub-No. 8), Brown Trucking, Inc., now being assigned December 7, 1977 (3 days), at Memphis, Tenn., in a hearing room to be later designated.

MC 114211 (Sub-No. 294), Warren Transport, Inc., now being assigned December 12, 1977 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

MC 65697 Sub 52, Theaters Service Co., Inc. now assigned October 3, 1977 and November 28, 1977 at Atlanta, Georgia and will be held in the Atlanta American Motor Hotel, 160 Spring Street N.W.

MC 33641 Sub 128, IML Freight Lines, Inc. now assigned November 1, 1977 at Atlanta, Georgia and will be held November 1 through November 4, 1977 in the Spokane Convention Center, Spokane Falls Boule-

vard and November 7, 1977 through November 18, 1977 at the Sheraton Hotel, 322 Spokane Falls Court.

MC 124211 Sub 289, Hilt Truck Line, Inc. now being assigned October 17, 1977 (1 day) at Chicago, Illinois and will be held in Court Room 704, Federal Building, 610 South Canal Street.

MC-F 13104, North Shore & Central Illinois Freight Co.—Purchase (Portion)—Buske Lines, Inc., and MC 99680 Sub 4, North Shore & Central Illinois Freight Co. now being assigned December 7, 1977 (3 days) at Chicago, Illinois in a hearing room to be later designated.

MC 140829 Sub 46, Cargo Contract Carrier Corp. now being assigned November 29, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 95540 Sub 848, Watkins Motor Lines, Inc., Extension Madison, Wisconsin, to Four States now being assigned December 5, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC-F 13131, Bee Line Transportation, Inc.—Purchase (Portion)—Hove Truck Line now being assigned November 30, 1977 (3 days) at Chicago, Illinois in a hearing room to be later designated.

MC 123407 (Sub-No. 360), Sawyer Transport, Inc., now assigned October 17, 1977, at St. Louis, Mo. is canceled and application dismissed.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc.77-26314 Filed 9-8-77; 8:45 am]

[Ex Parte No. 241; Rule 19, Exemption 94, Amdt. No. 11]

### DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND CONSOLIDATED RAIL CORP.

#### Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 94 issued February 5, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 94 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C. August 26, 1977.

INTERSTATE COMMERCE COMMISSION,  
JOEL E. BURNS,  
Agent.

[FR Doc.77-26312 Filed 9-8-77; 8:45 am]

### FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 6, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules

of Practice (49 CFR 1100.40) and filed on or before September 26, 1977.

FSA No. 43426—Rice from Houston, Tex. Filed by Southwestern Freight Bureau, Agent, (No. B-704), for interested rail carriers.

Rates on cracked or broken rice (brewers' rice) or milled rice, in bulk in covered hopper cars, as described in the application, from Houston, Tex., to Waverly, N.J.

Grounds for relief—Market competition.

Tariff—Supplement 83 to Southwestern Freight Bureau, Agent, tariff 326-C, I.C.C. No. 5155.

Rates are published to become effective on October 5, 1977.

#### AGGREGATE-OF-INTERMEDIATES

FSA No. 43427—Rice from Houston, Tex. Filed by Southwestern Freight Bureau, Agent, (No. B-705), for interested rail carriers.

Rates on cracked or broken rice (brewers' rice) or milled rice, in bulk in covered hopper cars, as described in the application, from Houston, Tex., to Waverly, N.J.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 83 to Southwestern Freight Bureau, Agent, tariff 326-C, I.C.C. No. 5155.

Rates are published to become effective on October 5, 1977.

By the Commission.

H. G. HOMME, Jr.,  
*Acting Secretary.*

[FR Doc.77-26313 Filed 9-8-77;8:45 am]

[Ex Parte No. 241; Rule 19, Corrected Exemption 104, Amdt. 7]

#### NORFOLK AND WESTERN RAILWAY CO. AND THE PITTSBURGH AND LAKE ERIE RAILROAD CO.

##### Exemption Under Mandatory Car Service Rules

Upon further consideration of Corrected Exemption No. 104 issued October 7, 1975.

*It is ordered,* That, under the authority vested in me by Car Service Rule 19, Corrected Exemption No. 104 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire November 30, 1977.

This amendment shall become effective August 31, 1977.

Issued at Washington, D.C., August 25, 1977.

INTERSTATE COMMERCE  
COMMISSION,  
JOEL E. BURNS,  
*Agent.*

[FR Doc.77-26311 Filed 9-8-77;8:45 am]

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### 1

#### CIVIL AERONAUTICS BOARD.

##### NOTICE OF CORRECTION AND ADDITION OF ITEMS TO THE SEPTEMBER 8, 1977 MEETING AGENDA

**TIME AND DATE:** 10 a.m., September 8, 1977.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 1. Request by Braniff Airways, Inc. for waiver from the requirements of section 221.171 (Memo No. 7372, BE, BAS). 10a. Dockets 29193, Alamogordo's and Ponca City's petitions for reconsideration of Order 77-2-116 insofar as it granted Frontier's petition to overfly Ponca City and Alamogordo (Memo No. 6408-B, BOR). 21. Docket 29926, Notice of Proposed Rulemaking, SPDR-56—OTC Advance Purchase Period (For Information Memo 8/3, BIA, OGC, BOE, BE, BOR).

**STATUS:** Open.

##### PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary (202-673-5068).

**SUPPLEMENTARY INFORMATION:** Because of an administrative problem, it was not possible to announce these additions to the September 8, 1977, agenda by close of business September 1, 1977. Item 10a. concerns petitions for reconsideration filed March 24 and 28, 1977. Item 21 concerns a notice of proposed rulemaking issued February 28, 1977. The staff will be prepared to answer Vice Chairman O'Melia's questions on September 8, 1977, on Item 21. So that the Board's consideration of these items will not be delayed, the following Members have voted that agency business requires that these items be added to the agenda on less than seven days' notice and that no earlier announcement of the additions was possible:

Chairman Alfred E. Kahn  
Vice Chairman Richard J. O'Melia  
Member G. Joseph Minetti  
Member Lee R. West  
Member Elizabeth E. Bailey

This notice also corrects a typographical error in item 1 which originally said "section 221.771". The correct citation "section 221.171" is above.

[S-1260-77 Filed 9-7-77; 9:02 am]

### 2

#### CIVIL AERONAUTICS BOARD.

##### NOTICE OF DELETION OF ITEM 16 FROM THE SEPTEMBER 8, 1977 MEETING AGENDA

**TIME AND DATE:** 10 a.m., September 8, 1977.

**PLACE:** Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

**SUBJECT:** 16. Report of the Ad Hoc Committee on Financial Security Aspects of the Board's Charter Regulations and Comments of Chairman Kahn requesting staff views. (For Information Memo dated 8/17/77, BOR.)

**STATUS:** Open.

##### PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary 202-673-5068.

**SUPPLEMENTARY INFORMATION:** Item 16 was announced on the September 8, 1977 agenda. At the time the agenda was prepared, it was believed that there was a draft notice of proposed rulemaking ready for Board deliberation. This was not the case. There is no need at this time for further Board discussion of the Report. Accordingly, the following Members have voted that agency business requires the deletion of this item from the September 8, 1977, agenda and that no earlier announcement of the deletion was possible:

Chairman Alfred E. Kahn  
Vice Chairman Richard J. O'Melia  
Member G. Joseph Minetti  
Member Lee R. West  
Member Elizabeth E. Bailey

[S-1261-77 Filed 9-7-77; 9:02 am]

### 3

#### FEDERAL MARITIME COMMISSION.

**TIME AND DATE:** 10 a.m., September 14, 1977.

**PLACE:** Room 12126, 1100 L Street NW., Washington, D.C. 20573.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. Proposed Delegation of Authority to Managing Director with Respect to Passenger Vessel Certification Matters.

2. Agreement No. T-3484: Between South Carolina State Ports Authority and The Italian Line—Terminal Lease at Charleston Harbor.

3. Agreement No. 9984-10, modification of the South Atlantic North Europe Rate Agreement Regarding Inland Movement of Containers and Collection of Underpayments of Freight.

4. Agreement No. 10292: Bermuda Discussion Agreement, between Pan Atlantic Shipping Ltd. and Bermuda Express Service.

5. Agreement No. 10305: Far East Trades Self-Policing Discussion Agreement.

6. Provisions and Reporting Requirements Applicable to Self-Policing Systems Under General Order 7—Docket No. 73-64—Further Proposed Rules.

#### CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-1265-77 Filed 9-7-77; 10:46 am]

### 4

#### FEDERAL POWER COMMISSION.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 42 FR 44867, 9/7/77.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 10 a.m., September 8, 1977; continued 10:00 a.m., September 9, 1977.

**CHANGE IN THE MEETING:** The following items have been added:

Item No.:	Docket No. and company
G-65..	RP77-122, Locust Ridge Gas Processing Co.
G-66..	CP77-299, Columbia Gas Transmission Corp.
G-67..	CP77-450, Northern Natural Gas Co.; CP77-593, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co.

KENNETH F. PLUMB,  
Secretary.

[S-1269-77 Filed 9-7-77; 10:46 am]

### 5

#### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

7

TIME AND DATE: 10 a.m., Wednesday, September 14, 1977—Closed Portion. 12 noon, Wednesday, September 14, 1977—Open Portion.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551. (Please use the C Street entrance.)

STATUS: Part of the meeting will be open; part will be closed.

**MATTERS TO BE CONSIDERED:**

**Closed portion:**

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding S. 684, a bill entitled the "Federal Bank Commission Act of 1977" and S. 711, a bill entitled the "Federal Bank Examination Council Act". This matter was originally considered at a meeting on August 15, 1977.

2. Proposed statement to be presented to the Subcommittee on Consumer Affairs of the House Committee on Banking, Finance and Urban Affairs regarding H.R. 8753, the Consumer Credit Protection Act Amendments of 1977.

3. Any agenda items carried forward from a previously announced meeting.

**Open Portion:**

1. Proposed revisions to the Federal Reserve System's Reports of Condition and Income.

2. Report to the Comptroller of the Currency regarding the competitive factors involved in the proposed acquisition of The First National Bank of Lawton, Lawton, Mich., by The American National Bank and Trust Company of Michigan, Kalamazoo, Mich.

3. Any agenda items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: September 7, 1977.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[S-1268-77 Filed 9-7-77:11:39 am]

6

**INDIAN CLAIMS COMMISSION.**

TIME AND DATE: 10:15 a.m., September 14, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 182, Fort Sill Apache.  
Docket 229, Navajo.

**FOR MORE INFORMATION:**

David H. Bigelow, Executive Director,  
Room 640, 1730 K Street NW., Wash-  
ington, D.C. 20006. Tel: 202-653-6184.

[S-1259-77 Filed 9-6-77:3:45 pm]

**UNITED STATES INTERNATIONAL TRADE COMMISSION.**

TIME AND DATE: 9:30 a.m., Thursday, September 22, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigation TA-201-26 (Malleable Cast-Iron Pipe and Tube Fittings)—vote.
5. Petitions and complaints:
  - a. Motion M-280 with respect to Investigation AA1921-165. (Metal-Walled, Above-Ground Swimming Pools from Japan);
  - b. Motion M-283 with respect to Investigation AA1921-127. (Elemental Sulphur from Canada).
6. Any items left over from previous agenda.

**CONTACT PERSON FOR MORE INFORMATION:**

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1258-77 Filed 9-6-77:2:46 pm]

8

**NATIONAL MEDIATION BOARD.**

TIME AND DATE: 2 p.m., Tuesday, September 13, 1977.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

**MATTERS TO BE CONSIDERED:**

- (1). Ratification of Board actions taken by notation voting during the month of August, 1977.
- (2). Jurisdictional determination re Catalina Airlines, Inc.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: 202-523-5920.

**SUPPLEMENTARY INFORMATION:** A majority of the Board has determined by recorded vote that agency business requires a meeting on this date and that no earlier announcement of such meeting was practicable.

(Date of Notice: September 2, 1977.)

9

**NATIONAL RAILROAD PASSENGER CORPORATION.**

**SPECIAL BOARD OF DIRECTORS MEETING**

In accordance with rule 4a. of Appendix A of the By-laws of the National

Railroad Passenger Corp., notice is given that the Board of Directors will meet on September 19, 1977.

A. The meeting will be held on Monday, September 19, 1977, in the Monet Suite of the Loew's L'Enfant Plaza East, SW., Washington, D.C. beginning at 9:30 a.m.

B. The meeting will be open to the public.

C. The agenda items to be discussed at the meeting follow:

AGENDA, NATIONAL RAILROAD PASSENGER CORPORATION, SPECIAL MEETING OF THE BOARD OF DIRECTORS, SEPTEMBER 19, 1977 (9:30 a.m.)

1. Selection of Chairman for Meeting.
2. Approval of Five Year Plan.
3. Consideration of Request for Supplemental Operating Appropriation.
4. Consideration of Request for Supplemental Capital Appropriation.
5. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at (202) 484-7679.

Dated: September 7, 1977.

ELYSE G. WANDER,  
Corporate Secretary.

[S-1264-77 Filed 9-7-77:10:46 am]

10

**NATIONAL SCIENCE BOARD.**

TIME AND DATE: 9 a.m., September 15, 1977. 9:30 a.m., September 16, 1977.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**  
Portions open to the public:

1. Minutes—Open Session—192nd Meeting.
2. Report from Science Information Activities Task Force.
3. Chairman's Report.
4. Director's Report.
5. Reports of Board Committees.
6. Consideration of Group Research Grants Program.
7. Scientific Program in the Antarctic.
8. Proposed Changes in "Criteria" Policy Statement.
9. Amendment to Government in the Sunshine Act Regulations.
10. Proposed Basic Research Stability Grants Program.
11. Preliminary Plans for Science and Engineering Applications.
12. Reports on NSF Advisory Groups.
13. Board Representation at Future Site Visits.

Portions closed to the public:

1. Report of Ad Hoc Committee on NSF Staff and NSB Nominees.

## SUNSHINE ACT MEETINGS

2. Minutes—Closed Session—192nd Meeting.

3. NSF Budget for Fiscal Year 1979.

**CONTACT PERSON FOR MORE INFORMATION:**

Miss Vernice Anderson, Executive Secretary, 202-632J5840.

[S-1267-77 Filed 9-7-77;10:46 am]

**11**

**POSTAL RATE COMMISSION.**

**TIME AND DATE:** 9 a.m., Thursday, September 15, 1977.

**PLACE:** Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Order consolidating certain proposals from Docket No. MC76-2 into Docket No. R77-1.

2. Tentative Decision re: OOC proposal to expand red tag service and institute surcharge, Docket No. MC76-2.

By recorded vote the Commission has determined that notice cannot be given at least one week prior to the meeting since Commission business requires that the meeting be called at an earlier time.

**CONTACT PERSON FOR MORE INFORMATION:**

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-1266-77 Filed 9-7-77;10:46 am]

**12**

**UNITED STATES PAROLE COMMISSION.**

Public Announcement pursuant to the Government in the Sunshine Act [5 U.S.C. § 552(b)]

A meeting of the National Commissioners of the United States Parole Commission will be held at 10 a.m. on Tuesday, September 20, 1977, in Room 338 of the Federal Home Loan Bank Board Building at 320 First Street NW., Washington, D.C.

Referrals of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are opposing revocation of parole or mandatory release have been made by Regional Commissioners for decision at this meeting pursuant to 28 CFR § 2.17. Each case will be adjudicated on a record following the inmate's parole or revocation hearing.

The General Counsel of the United States Parole Commission has certified that this meeting may be closed to the public pursuant to 5 U.S.C. § 552b(c)(10) and 28 CFR § 16.205(b)(1).

The name and phone number of the official designated by this agency to respond to questions about this meeting is Mr. Lee H. Chait, Analyst, 202-724-3094. Dated: September 6, 1977.

[S-1270-77 Filed 9-7-77;10:46 am]

**Federal Register**

FRIDAY, SEPTEMBER 9, 1977

PART II



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DEPARTMENT OF  
HOUSING  
AND URBAN  
DEVELOPMENT

Federal Insurance  
Administration

■

NATIONAL FLOOD  
INSURANCE PROGRAM

Proposed Flood Elevation Determinations  
for Various Communities

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

[Docket No. FI-2774]

[24 CFR Part 1917]

### TOWNSHIP OF PORTAGE, CAMERON COUNTY, PA.

#### Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on March 28, 1977, at 42 FR 16605 in the FEDERAL REGISTER, showing the display location as the home of Mr. Salsgiver, R.D. 2, Box 400, Portage, Pa., and the Chief Executive Officer as Mr. Steve Havrilak, Chairman of the Board of Supervisors, 807 Luther Avenue, Portage, Pa., was in error. It should be corrected to show the display location as the home of Twila Aldin, Secretary/Treasurer, R.D. 1, Emporium, Pa. The Community Executive Officer is Mr. Leonard Burkhouse, Chairman of the Board of Supervisors of Portage, R.D. 1, Emporium.

#### FOR FURTHER INFORMATION CONTACT:

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

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25201 Filed 9-8-77; 8:45 am]

[Docket No. FI-3294]

[24 CFR Part 1917]

### TOWNSHIP OF CINNAMINSON, N.J.

#### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Cinnaminson, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publi-

cation of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 1621 Riverton Road, Cinnaminson, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James Meckel, Township Hall, 1621 Riverton Road, Cinnaminson, N.J. 08077.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20510.

#### SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Cinnaminson, N.J., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pompeston Creek and west branch.	Riverton Rd., Moorestown Rd.	21
	Parry Rd.	28
	Devon Rd.	26
	Wayne Ave.	24
	Willow Dr.	22
	U.S. Route 130, North Broad St.	18
East and southeast branch of Pompeston Creek.	Parry-New Albany Rd.	34
	School driveway	28
Jacks Run	Highland Ave.	54
	Thomas Ave.	27
	Cherry Lane	19
	Main St.	18
Pheasant Run	Waterford Dr.	35

1 Elevation downstream of bridge.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pompeston Creek and south branch.	New Jersey Route 72	10
	U.S. Route 130	10
North branch of Pompeston Creek.	Fork Landing Rd.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25189 Filed 9-8-77; 8:45 am]

[Docket No. FI-3294]

[24 CFR Part 1917]

### TOWN OF ELLICOTTVILLE, CATTARAUGUS COUNTY, N.Y.

#### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Ellicottville, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1 West Washington Street, Ellicottville, N.Y. 14731.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John C. Mason, Town Supervisor, Ellicottville, N.Y. 14731.

#### FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determina-

tions of base flood elevations (100-year flood) for the Town of Ellicottville, Cattaraugus County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Valley Creek.	Downstream Ellicottville town boundary.	1,510
	Cheslie System.	1,528
	Downstream Ellicottville village boundary.	1,529
	Upstream Ellicottville village boundary.	1,540
	Private road.	1,544
	Cheslie System.	1,554

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25190 Filed 9-8-77; 8:45 am]

[Docket No. FI-3295]

[ 24 CFR Part 1917 ]

**VILLAGE OF HERKIMER, HERKIMER COUNTY, N.Y.**

**Proposed Flood Elevation Determinations**  
AGENCY: Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed

base flood elevations (100-year flood) listed below for selected locations in the Village of Herkimer, Herkimer County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Municipal Building, 120 Green Street, Herkimer, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Donald Reile, Mayor of Herkimer, 120 Green Street, Herkimer, N.Y. 13350.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Herkimer, Herkimer, County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mohawk River.....	Upstream corporate limits.	394
	New York State Throughway bridge.	391
	Confluence with Hydraulic Canal.	388
	Downstream corporate limits.	387
West Canada Creek.	Upstream corporate limits.	414
	East State St. Bridge.	390
	Con Rail.	387
	Confluence with Mohawk River.	384
Bellinger Brook.....	Maple Grove Ave. Bridge.	419
	Church St. Bridge.	414
	High school foot-bridge.	402
	Downstream corporate limits.	395

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25191 Filed 9-8-77; 8:45 am]

[Docket No. FI-3296]

[ 24 CFR Part 1917 ]

**TOWN OF LEWISTON, NIAGARA COUNTY, N.Y.**

**Proposed Flood Elevation Determinations**

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Lewiston, Niagara County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1375 Ridge Road, Lewiston, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James

J. Lombardi, Town Supervisor, P.O. Box 326, Lewiston, N.Y. 14092.

FOR FURTHER INFORMATION CONTACT:

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lewiston, Niagara County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fish Creek	Robert Moses Parkway	539
	Route 104	579
	Route 285	592
	Confluence with unnamed tributary	598
Gill Creek	Bronson Dr.	600
	Hewitt Dr.	601
	Confluence with unnamed tributary	604
	Upstream confluence with unnamed tributary	617

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25192 Filed 9-8-77; 8:45 am]

[Docket No. FI-3297]

[ 24 CFR Part 1917 ]

CITY OF PORT JERVIS, ORANGE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Port Jervis, Orange County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATE:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1418 Hammond Street, Port Jervis, N.Y. 12771.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable H. Robert Eccleston, Mayor of Port Jervis, 1418 Hammond Street, Port Jervis, N.Y. 12771.

FOR FURTHER INFORMATION CONTACT:

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Port Jervis, Orange County, N.Y. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at anytime enact stricter requirements

on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Downstream corporate limits	431
	Interstate 54	431
	Pike St.	442
	Upstream corporate limits	451
Neversink River	Downstream corporate limits	431
	Main St. (Tristates Bridge)	432
	Con Rail	436
	Confluence of Cold Creek	439
	Upstream corporate limits	439
	Confluence with Neversink River	439
Cold Brook	Beach Rd.	440
	Hamilton St.	440
	Confluence of tributary A	440
	Abandoned railroad bridge	440
	Kingston Ave.	441
	Corporate limits	441
Tributary A	Confluence with Cold Brook	440
	Abandoned railroad bridge	440
	Kingston Ave.	444
	Glass St.	454
	Canal St.	464
	Brooklyn St.	472
	Orange St.	485
	Hudson St.	504
	Cedar St.	517
	Reservoir Bridge	540
Access Road Bridge	561	
Tributary B	Corporate limits	571
	Driveway Bridge (downstream)	513
	Driveway Bridge (upstream)	544
	Corporate limits	574

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25193 Filed 9-8-77; 8:45 am]

[Docket No. FI-3298]

[ 24 CFR Part 1917 ]

TOWN OF SMITHTOWN, SUFFOLK COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Smithtown, Suffolk County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Town Hall, 99 West Main Street, Smithtown, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles Cacciabauda, Town Supervisor of Smithtown, 99 West Main Street, Smithtown, N.Y. 11787.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Smithtown, Suffolk County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Nissequogue River.	Highland Dr. (extended).	11
	Smithtown Landing Country Club.	11
	Landing Rd. (extended).	11
	Landing Ave. (extended).	11
	Main St. (extended).	11
Sunken Meadow Creek.	Old Dock Rd. (extended).	11
	Sunken Meadow Street Parkway.	11
	Salonga Rd. (extended).	11
	Leont Dr. (extended).	11
Phillips Millpond.	Long Island R.R. crossing.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25194 Filed 9-8-77; 8:45 am]

[Docket No. FI-3299]

[24 CFR Part 1917]

**VILLAGE OF WATKINS GLEN, SCHUYLER COUNTY, N.Y.**

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Watkins Glen, Schuyler County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the hallway of the Municipal Building, 303 North Franklin Street, Watkins Glen.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Warren Miller,

Municipal Building, 303 North Franklin Street, Watkins Glen, N.Y. 14890.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Watkins Glen, Schuyler County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Chemung Barge Canal.	State Route 414. ....	449
	Corporate limits (upstream).	449
Glen Creek. ....	Confluence with Chemung Barge Canal.	449
	Con.Rail Bridge. ....	461
	Decatur St. ....	470
	State Route 14/ Franklin St.	474

<sup>1</sup> Seneca Lake.—It should be noted that the flood zones along Chautauque Lake west of the Con.Rail R.R. are limited to a very narrow band extending upward from the lake shore to elevations 449 and 450 ft. In the area east of the Con.Rail R.R., Seneca Lake flooding extends upward and inundates at an elevation of 449 ft the flat marshy lands that contain the Barge Canal and the Seneca Lake Inlet.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25195 Filed 9-8-77; 8:45 am]

[Docket No. FI-3300]

[ 24 CFR Part 1917 ]

**TOWN OF WILLIAMSON, WAYNE COUNTY, N.Y.****Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Williamson, Wayne County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 7 East Main Street, Williamson, N.Y. 14589.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Ms. Jean Elliott, Town Clerk, Town Hall, 7 East Main Street, Williamson, N.Y. 14589.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Williamson, Wayne County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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

Source of flooding	Location	Elevation in feet above mean sea level
Salmon Creek	Mill St.	252
	Hamilton Rd.	274
	Tuckahoe Rd.	303
	Eaton Rd.	336
	Salmon Creek Rd.	346
	do.	390
	do.	401
	do.	414
	Con Rail	415
	Route 104	416
Unnamed tributary to Salmon Creek.	Chapel Rd.	441
	Eddy Ridge Rd.	440
	Unstream limit of study.	440

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25196 Filed 9-8-77; 8:45 am]

[Docket No. FI-3301]

[ 24 CFR Part 1917 ]

**TOWN OF MARSHALL, N.C.****Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Marshall, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATE:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Marshall, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor George E. Penland, P.O. Box 548, Marshall, N.C. 28753.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Marshall, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
French Broad River.	Capitola Dam <sup>1</sup>	1,652
	do. <sup>2</sup>	1,648
	Redmon Dam <sup>1</sup>	1,629
	do. <sup>2</sup>	1,601

<sup>1</sup> Upstream.  
<sup>2</sup> Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25197 Filed 9-8-77; 8:45 am]

[Docket No. FI-3302]

[ 24 CFR Part 1917 ]

**TOWNSHIP OF BENSALAM, BUCKS COUNTY, PA.****Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed

base flood elevations (100-year flood) listed below for selected locations in the Township of Bensalem, Bucks County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Zoning and Building Office, Bensalem Township Municipal Building, 3800 Hulmeville Road, Cornwell Heights, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Stephen Kelly, Chairman of the Bensalem Township Board of Supervisors, Bensalem Township Municipal Building, 3800 Hulmeville Road, Cornwell Heights, Pa. 19020.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Bensalem, Bucks County, Pa., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Delaware River...	Upstream corporate limits.	11
Neshaminy Creek...	Poquessing Creek.....	10.5
	Reading RR.....	51
	U.S. Route 1.....	45
	Old Lincoln Highway.....	48
	Hulmeville Rd.....	32
	Penna Turnpike.....	22
	Newportville Rd.....	19
	I-95.....	16
	Bristol Pike.....	13
	Penn Central RR.....	13
Poquessing Creek...	Reading RR.....	126
	Roosevelt Blvd.....	112.5
	Bensalem Turnpike.....	107
	Cloverdale Rd.....	98.3
	Richillen Rd.....	87
	Century Lane.....	76
	Dunks Ferry Rd.....	70
	Knights Rd.....	61
	Eddington Golf Course tributary.....	50.5
	Hyberry Rd.....	42
Eddington Golf Course tributary.	Woodhaven Rd.....	41
	Red Lion Rd.....	28
	Frankford Ave.....	26
	State road.....	10.5
	Street road.....	83
	Brown Ave.....	78
	Private drive.....	76
	Foot bridge.....	61
	Downstream corporate limits confluence with Poquessing Creek.....	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc.77-25198 Filed 9-8-77;8:45 am]

[Docket No. FI-3303]

[ 24 CFR Part 1917 ]

**TOWNSHIP OF LIGONIER,  
WESTMORELAND COUNTY, PA.**

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Ligonier, Westmoreland County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Ligonier Township Municipal Building, Old Route 30 West, Ligonier, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Clarence H. Carns, Chairman of the Ligonier Township Board of Supervisors, R.D. 2, Box 6A, Ligonier, Pa. 15658.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Ligonier, Westmoreland County, Pa., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Loyalhanna Creek...	Confluence with Laughlin Run.....	1,180
	Township Route 605 .....	1,164
	S.R. 711.....	1,152
	Confluence with Mill Creek.....	1,143
	L.R. 64071.....	1,141
	Confluence with Four Mile Run.....	1,139
	U.S. Route 30.....	1,109
	L.R. 64075.....	1,174
	Township Route 944 (bridge deck collapsed).....	1,138
	L.R. 64060.....	1,141
Four Mile Run.....	Confluence with unnamed tributary.....	1,139

Source of flooding	Location	Elevation in feet above mean sea level
Two Mile Run.....	Township Route 595.....	1,322
	L.R. 6466.....	1,312
	L.R. 6467.....	1,140
	Ann Roberts Rd.....	1,384
Mill Creek.....	Pennsylvania Route 271.....	1,322
	Confluence with Mack's Run.....	1,308
	Pennsylvania Route 271.....	1,287
	State Route 711.....	1,163
Hanna's Run.....	Abandoned railroad.....	1,151
	Township Route 950.....	1,145
	U.S. Route 30 West.....	1,143
	U.S. Route 30 East.....	1,142
	Robb Rd.....	1,224
	White City Rd.....	1,217
	Confluence of Mary Ann Run.....	1,205
	Private drive.....	1,210
	L.R. 6468.....	1,215
	L.R. 6469.....	1,282
Tributary No. 1.....	Township Route 595.....	1,273
	Confluence with Mill Creek.....	1,316
Mack's Run.....	Township Route 954.....	1,308
	Confluence with Mill Creek.....	1,290
Laughlinton Run.....	Mill St.....	1,271
	U.S. Route 30.....	1,263
	Private drive.....	1,228
	Confluence with Nangle Run.....	1,309
	Laurel Glen Dr.....	1,196
	State Route 381.....	1,187
Nangle Run.....	Mill St.....	1,266
	Private drive.....	1,227
Lynn Run.....	Confluence with Laughlinton Run.....	1,308
	7,350 ft above confluence of Loyalhanna Creek.....	1,342
	6,300 ft above confluence of Loyalhanna Creek.....	1,311
	4,600 ft above confluence of Loyalhanna Creek.....	1,285
	L.R. 6466.....	1,285

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc.77-25199 Filed 9-8-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3304]

**BOROUGH OF MOUNT CARMEL,  
NORTHUMBERLAND COUNTY, PA.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Mount Carmel Municipal Building, 50 North Oak Street, Mount Carmel, Pa.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Frank Cimino, Mayor of Mount Carmel, Mount Carmel Municipal Building, 50 North Oak Street, Mount Carmel, Pa. 17851.

**FOR FURTHER INFORMATION CONTACT:**

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Mount Carmel, Northumberland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-488), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Shamokin Creek...	Upstream corporate limit.....	1,074
	Locust St.....	1,064
	Hickory St.....	1,058
	Poplar St.....	1,052
	Downstream corporate limit.....	1,050

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc.77-25200 Filed 9-8-77;8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3306]

**CITY OF ALAMO HEIGHTS, BEXAR COUNTY, TEX.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Alamo Heights, Bexar County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Alamo Heights, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ellcon McGaughey, 6116 Broadway, San Antonio, Tex. 78209.

**FOR FURTHER INFORMATION CONTACT:**

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Alamo Heights, Bexar County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any exist-

ing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Broadway <sup>1</sup>	Grove Pl.	707
Austin Highway <sup>1</sup>	Rountt St.	730
New Braunfels Ave. <sup>1</sup>	Cloverleaf Ave.	754
	East Elm View Pl.	774

<sup>1</sup> These are street names. Streets are utilized for drainage during storms.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25202 Filed 9-8-77; 8:45 am]

[Docket No. FI-3307]

[24 CFR Part 1917]

**CITY OF WEST LAKE HILLS, TRAVIS COUNTY, TEX.**

Proposed Flood Elevation Determinations AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of West Lake Hills, Travis County, Tex.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board, West Lake Hills City Office, 101 West Bee Cave Road, Suite 11, Austin, Tex.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Tom H. Taylor, Mayor of West Lake Hills, West Lake Hills City Office, 101 West Bee Cave Road, Suite 11, Austin, Tex. 78746.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of West Lake Hills, Travis County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Bee Creek	Lake Austin	503
	West Lake Dr.	520
	Confluence with tributary near Toro Canyon.	553
	Confluence with tributary near west end of Wild Basin Ledge.	584
	Small dam downstream of 1st tributary entering from south.	645
	1st tributary entering from south.	650
	Small dam downstream of 2d tributary entering from south.	668
	2d tributary entering from south.	679
	Upstream corporate limits.	680
	Little Bee Creek	Lake Austin
Top of 1st dropoff		549
Top of 2d dropoff		572
Top of 3rd dropoff		600
Red Bud Trail		627
West Lake Dr. (1st crossing)		632
	Laurel Valley Rd. (1st crossing)	640

Source of flooding	Location	Elevation in feet above mean sea level
	Laurel Valley Rd. (3d crossing)	675
	Laurel Valley Rd. (3d crossing)	717
	Approximately 600 ft east of Madrone Rd.	770

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25203 Filed 9-8-77; 8:45 am]

[Docket No. FI-3308]

[24 CFR Part 1917]

**TOWN OF ALTAVISTA, CAMPBELL COUNTY, VA.**

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board, Town Hall, 510 Seventh Street, Altavista, Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Wilson L. Dickerson, Town Manager, Town Hall, 510 Seventh Street, Altavista, Va.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determina-

tions of base flood elevations (100-year flood) for the Town of Altavista, Campbell County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River	Downstream corporate limits	534
	State Route 608	536
	U.S. 29	537
	Norfolk & Western R.R.	538
Lynch Creek	3d St.	536
	U.S. 29	548
	Southern R.R. (downstream)	558
	Southern R.R. (upstream)	570
	Upstream corporate limits	610

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 77-25204 Filed 9-8-77; 8:45 am]

#### [ 24 CFR Part 1917 ]

[ Docket No. FI-3309 ]

#### COUNTY OF BOTETOURT, VA.

#### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Fincastle, Va. 24090.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Stephen C. Shelton, County Administrator of Botetourt County, P.O. Box 279, Fincastle, Va. 24090.

#### FOR FURTHER INFORMATION CONTACT:

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

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Botetourt, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Back Creek	Confluence with Riis Run	919
	State Route 630	924
	State Route 636	930
	State Route 640	906

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buffalo Creek	Norfolk & Western Ry.	1,109
	U.S. Route 81 on ramp	1,181
	U.S. Route 220	1,187
	U.S. Route 81	1,193
	State Route 603	1,254
	County limits	1,285
Craig Creek	Confluence with James River	911
	State Route 615	911
	State Route 685	943
	Footbridge	967
	Roaring Run	968
Eagle Rock Creek	Confluence with James River	930
	Chesapeake & Ohio R.R.	936
	State Route 688	938
	State Route 43	954
	State Route 742	982
	State Route 745 (downstream)	991
	State Route 745 (upstream)	1,019
Ellis Run	Confluence with Back Creek	919
	State Route 640	928
	County limits	964
Glade Creek	Norfolk & Western Ry. (downstream)	1,007
	Norfolk & Western Ry. (upstream)	1,013
	State Route 738	1,013
	Confluence with Laymantown Creek	1,014
Jackson River	Confluence with James River	1,015
	State Route 727	1,019
	County limits	1,021
James River	do	761
	State Route 614	778
	Jennings Creek	802
	Buchanan corporate limits (downstream)	832
	Buchanan corporate limits (upstream)	834
	Looney Mill Creek	840
	U.S. Route 81 (east lane)	842
	Milepost 322	833
	State Route 220	838
	Confluence with Craig Creek	941
	Old railroad bridge	942
	Milepost 320.16	948
	Mill Creek	950
	Sinking Creek	957
	Milepost 334.69	988
	State Route 633	991
Laurel Run	State Route 640	858
	Norfolk & Western Ry.	894
Laymantown Creek	Confluence with Glade Creek	1,014
	State Route 638	1,027
	State Route 499	1,039
	State Route 658	1,042
Long Run	Looney Mill Creek	840
	State Route 825	841
Looney Mill Creek	Confluence with James River	840
	Long Run	840
	State Route 625	840
	U.S. Route 11	857
	Laurel Run	858
Mill Creek	Confluence with James River	956
	Chesapeake & Ohio Ry.	967
	U.S. Route 220	968
	State Route 804	962
	Private drive	1,019
	Confluence with Craig Creek	968
Roaring Run	Craig Creek	968
	State Route 615	968
Sinking Creek	Confluence with James River	957
	Chesapeake & Ohio R.R.	957
	U.S. Route 220	958
	County limits	1,132
Tiuker Creek	Service Rd. (downstream)	1,102
	U.S. Route 220	1,106
	State Route 654	1,132
	State Route 1103	1,133
	Diversion Dam (downstream)	1,134
	Service Rd. (at upstream crossing)	1,134
	Service Rd. (2d upstream crossing)	1,139

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	U. S. Route 11.....	1,141
	Interstate 81.....	1,150
	Diversion Dam (upstream).	1,135
	State Route 516.....	1,161

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25205 Filed 9-8-77; 8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3310]

TOWN OF CHILHOWIE, SMYTH COUNTY, VA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Chilhowie Town Hall, Highway 11, Chilhowie, Va.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Edwin B. Sanders, Mayor of Chilhowie, Drawer M, Chilhowie, Va. 24319.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator

gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Chilhowie, Smyth County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

Source of flooding	Location	Elevation in feet above mean sea level
Middle Fork Holston River.	Downstream corporate limits.	1,945
	Virginia Highway 751.	1,946
	Walton Ave. (extended).	1,947
	Church Ave. (extended).	1,948
	Chestnut Ave. (extended).	1,949
	Bonham Ave. (extended).	1,950
Carlock Creek.....	Norfolk & Western RR.	1,951
	U. S. Highway 11.....	1,952
Sulphur Spring Creek.	Upstream corporate limits.	1,952
	Norfolk & Western RR.	1,945
	Pendleton Ave. (extended).	1,947
	Upstream corporate limits.	1,947

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25206 Filed 9-8-77; 8:45 am]

[ 24 CFR Part 1917 ]

[Docket No. FI-3311]

TOWN OF PALOUSE, WHITMAN COUNTY, WASH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the City Hall, Palouse, Wash.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Eugene L. Allan, Mayor of Palouse, City Hall, P.O. Box 248, Palouse, Wash. 99161.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palouse, Whitman County, Wash. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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

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

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Palouse River.....	Upstream corporate limits.	2,438
	F St.....	2,430
	Bridge St.....	2,427
	Unnamed stream.....	2,425
	Railroad bridge.....	2,425
	Unnamed stream.....	2,425
	Main St.....	2,423
	Corporate limits downstream from Main St.	2,422
	Corporate limits upstream from State Route 272.	2,417
	State Route 272.....	2,417
	Railroad bridge.....	2,417
	Downstream corporate limits.	2,417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: July 28, 1977.

PATRICIA ROBERTS HARRIS,  
*Secretary.*

[FR Doc.77-25207 Filed 9-8-77;8:45 am]

**Federal Register**

**FRIDAY, SEPTEMBER 9, 1977**

**PART III**



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**DEPARTMENT OF  
THE TREASURY**

**Comptroller of the Currency**



**MUNICIPAL SECURITIES  
DEALERS**

**System of Records**

## Title 12—Banks and Banking

## CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

## PART 10—MUNICIPAL SECURITIES DEALERS

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Adoption of regulations.

SUMMARY: The Comptroller of the Currency has adopted regulations and accompanying forms and instructions which establish the method to be used by national and District of Columbia bank municipal securities dealers and their associated persons in complying with the professional qualifications rules of the Municipal Securities Rulemaking Board. The detailed system of records to be created through operation of the regulations will enable the Comptroller of the Currency to monitor this compliance effectively.

DATE: The effective date of these regulations is October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold I. Freilich, Securities Disclosure, 202-447-1954 or Richard H. Nelson, Attorney, Legal Advisory Services Division, 202-447-1884; Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: On March 30, 1977, the Comptroller of the Currency ("Comptroller") published for comment in the FEDERAL REGISTER (42 FR 16813) proposed regulations (12 CFR Part 10) requiring national and District of Columbia bank municipal securities dealers to file with the Comptroller certain information about those persons who are or seek to be associated with these dealers as municipal securities principals or municipal securities representatives. Proposed Part 10 included two forms, with instructions, designed for the collection of the required information. Form MSD-4 was proposed to report a person's existing or prospective association with the dealer in a given capacity, and Form MSD-5 to report the termination of that association.

Proposed Part 10 was identical in all significant respects to proposals published the same day by the Board of Governors of the Federal Reserve System ("FED") and the Federal Deposit Insurance Corporation ("FDIC") for bank municipal securities dealers and associated persons under their respective jurisdictions. The FED, the FDIC and the Comptroller cooperated in drafting the forms and establishing a uniform record processing system in order to assure equal regulation among all classes of bank municipal securities dealers. As discussed more fully in the preamble to proposed Part 10, the three agencies expect to use the computer data base and processing facilities of the National Association of Securities Dealers ("NASD") to analyze, store, and retrieve the information filed by bank municipal securities dealers.

## DISCUSSION OF COMMENTS

A. All comments received by the Comptroller, the FED and the FDIC on their

respective proposals were exchanged and collectively considered in order to maintain the uniformity of the forms, instructions, and procedures which had been proposed. As here adopted, Part 10 incorporates several changes from the March 30, 1977 proposal in response to the comments received, as discussed below.

1. For purposes of Forms MSD-4 and MSD-5 and the respective instructions, the term "bank dealers" has been replaced by "bank municipal securities dealers." It includes all municipal securities dealers for which the Comptroller, the FED and the FDIC are the appropriate regulatory agencies under Section 3 (a) (34) of the Securities Exchange Act of 1934 ("the Act") (15 U.S.C. 78c(a) (34)).

This change should minimize questions about filing requirements for those municipal securities dealers which are sometimes erroneously referred to as "bank dealers," but for which the Securities and Exchange Commission ("SEC"), not one of the Federal bank regulatory agencies, is the appropriate regulatory agency.

2. The record retention provisions of Part 10 have been clarified to require municipal securities dealers filing documents with the Comptroller under Part 10 to retain a copy of each filing for at least three years following termination of the association of the individual to whom the filing relates. This change tracks the record retention requirements of Municipal Securities Rulemaking Board ("MSRB") Rule G-7(e).

3. The instructions to Forms MSD-4 and MSD-5 have been changed to require that only the original, not the copies, need be manually signed.

4. A slight change in the wording of Item 6 (formerly Item 8) of Form MSD-4 allows a person to apply for qualification as both a "municipal securities principal" and "representative" by means of a single form.

5. Item 7 (formerly Item 9) of Form MSD-4, which describes the functions to be performed by the applicant, has been expanded to include three more activity categories. This reflects recent changes in the MSRB professional qualification rules.

6. In Item 7 (formerly Item 8) of Form MSD-5, the termination categories "permitted to resign" and "voluntary" have been combined under the single term "resigned." Another change in this item specifies that municipal securities dealers must furnish details about the reason for termination only if it is related to an actual or probable violation of banking or securities law.

7. The effective date of Part 10 has been changed from September 1, 1977 to October 31, 1977, to correspond with the dates set by the FED and the FDIC. It should be noted that the effective date of MSRB Rule G-7 is October 15, 1977. Rule G-7 in part requires municipal securities dealers to obtain background and qualification information from their associated persons, but does not require that this information be filed with the appropriate regulatory agencies. Forms MSD-4 and MSD-5 will be available prior to the effective date of Rule G-7, so bank municipal securities dealers will be able to use Form MSD-4 to comply

with the rule first, and then have an additional period of time within which to assemble the forms and data for formal filing with the Comptroller, FED or FDIC, as appropriate.

8. Several minor editorial changes have also been made in Part 10 to correct errors and clarify some of its provisions.

B. The following comments were carefully considered but not adopted for the reasons given.

1. Concern about the effect of Item 10 (now Item 8) of Form MSD-4 on the privacy of individuals appeared in many of the comments. This item requires the employing bank municipal securities dealer to verify the employment information provided by the applicant by contacting the applicant's former employers.

One commentator suggested that applicants be required to execute several authorizations and certifications as part of Form MSD-4, similar to the format found in the securities industry's Form U-4. The employer inquiry language in Form MSD-4 is based on the explicit requirements of MSRB Rule G-7. Municipal securities dealers may well be able to resolve their privacy concerns through their own personnel practices, including perhaps the execution of appropriate authorization documents by an applicant, as long as these practices do not conflict with MSRB Rule G-7.

Another commentator was concerned that responses to inquiries of former employers may be less than candid, if received at all, because of the potentially sensitive nature of employee information. The extent of a municipal securities dealer's obligation under MSRB Rule G-7 and Form MSD-4 is to make a good-faith attempt to obtain appropriate information. On the other hand, MSRB Rule G-7 does impose an obligation on municipal securities dealers who receive these inquiries to respond to the extent required by that rule. Existing personnel practices which limit the information given out in such cases may conflict with Rule G-7.

2. One commentator proposed that a definition of the term "municipal securities dealer" be included in the regulations and that the definition contain considerably more detail than Section 3(a) (30) of the Act. The Act requires municipal securities dealers to register with the SEC, and that agency, not the bank regulatory agencies, has the authority to define the term further. The SEC did this in Securities Exchange Act Release 34-11742 (October 15, 1975), and subsequently its staff has issued interpretive letters.

3. Comments on Form MSD-4 that some of the activities listed in Item 9 (now Item 7) could include "operational personnel," and that educational and residential histories are not meaningful, did not result in any changes because both items reflect the requirements of the MSRB professional qualification rules.

4. A suggestion that Form MSD-4 include a check-off box labeled "grandfathered" was not followed because the form already contains informational items which will indicate whether an ap-

plicant is in fact "grandfathered" under MSRB rules.

5. A comment that more space be provided on Forms MSD-4 and MSD-5 for answers to some items was not followed because of a desire to keep the forms as short as possible. Attachment sheets may be used when necessary, as explained in the instructions to forms.

6. A suggestion that documents filed under Part 10 be considered "filed" when mailed rather than when received was not followed in order to be consistent with long-established filing procedures of the SEC. Forms MSD-4 and MSD-5 are also required to be filed with the SEC. By special arrangement, the SEC intends to accept filing with the appropriate bank regulatory agency as meeting this filing requirement.

7. All Part 10 filings made by a given bank municipal securities dealer will contain the identity, address and registration number of the dealer. One commentator was concerned that a change in any of these items might require the filing of an amendment to every previously filed document, and suggested that a single "letter amendment" be permitted to accomplish this.

The instructions in Part 10 governing the preparation and filing of amendments are intended to track the requirements of MSRB Rule G-7, which requires updating of the information furnished to municipal securities dealers by their associated persons. This would not apply to the situation posed. Changes in dealer identity, address or registration must be reported to the SEC as amendments to the dealer registration form and as such would be reflected in the computerized dealer registration list maintained by the SEC and available to the bank regulatory agencies. Such changes will be entered into the Part 10 filings by the Comptroller as a matter of course.

8. Several comments concerning specific language in Part 10 require interpretations of MSRB rules. The Comptroller intends to submit questions of this nature to the MSRB for resolution.

Finally, one commentator asked about Part 10 filing procedures. The Comptroller considers the filing requirements to be explained adequately in §§ 10.3 and 10.4 of Part 10, in the instructions to Forms MSD-4 and MSD-5, and in the lengthy FEDERAL REGISTER preamble to proposed Part 10 published on March 30, 1977.

The Comptroller urges municipal securities dealers to familiarize themselves with MSRB Rule G-7 in order to understand the interaction between that rule and Part 10.

#### AVAILABILITY OF FORMS

The Comptroller expects to distribute printed copies of Forms MSD-4 and MSD-5 to municipal securities dealers under its jurisdiction prior to the effective date of MSRB Rule G-7. Additional copies will be available from the Comptroller as needed after this initial distribution.

#### PRIVACY ACT

The filing requirements of Part 10 will create a system of records which may be

subject to the Privacy Act of 1974, 5 U.S.C. 552a. A detailed notice of this proposed system of records was published the same day as proposed Part 10 at 42 FR 16882.

The Comptroller has adopted the system of records with only minor changes. A formal notice of adoption which lists the routine uses to be made of the information in the system is published elsewhere in this issue of the FEDERAL REGISTER. Affected persons are urged to read the full text of that notice.

#### RULEMAKING PROCEDURE

The Comptroller finds that the changes made in the Part 10 proposal of March 30, 1977, respond to public comments and otherwise consist of corrections and clarifications which do not impose additional burdens on affected persons. Accordingly, further public participation in this rulemaking process is not required by the relevant provisions of 5 U.S.C. 553.

#### DRAFTING INFORMATION

Forms MSD-4 and MSD-5 and their respective instructions are the result of a cooperative drafting effort of the Federal bank regulatory agencies which involved several individuals. The principal author of this preamble and of sections 10.1 to 10.4 of Part 10 is Attorney R. Michael Hagen.

#### EFFECTIVE DATE

The effective date of this Part 10 is October 31, 1977.

#### REGULATIONS

Under the authority of Sections 15 B(c) (5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c) (5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 et seq., the Comptroller hereby amends Chapter I of Title 12 of the Code of Federal Regulations by adopting new 12 CFR Part 10 as follows:

#### REGULATIONS

- |      |   |
|------|---|
| Sec. |   |
| 10.1 | Scope of part.  |
| 10.2 | Definitions.  |
| 10.3 | Filing of materials.  |
| 10.4 | Application on Form MSD-4 for municipal securities principals and representatives; amendments; notice of termination on Form MSD-5. |

#### FORMS

- |       |   |
|-------|---|
| 10.41 | Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-4).        |
| 10.42 | Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-5). |

AUTHORITY: 12 U.S.C. 1 et seq.; 15 U.S.C. 78o-4(c) (5), 78q-78w.

#### REGULATIONS

##### § 10.1 Scope of part.

This part is issued by the Comptroller of the Currency and applies to:

(a) All national banks and banks operating under the Code of Law for the

District of Columbia, or their subsidiaries or separately identifiable departments or divisions, which act as municipal securities dealers, as that term is defined in Section 3(a) of the Securities Exchange Act of 1934; and

(b) Any person associated or to be associated with any such bank, subsidiary, department or division in the capacity of a municipal securities principal or a municipal securities representative, as those terms are defined in Rule G-3 of the Municipal Securities Rulemaking Board.

##### § 10.2 Definitions.

For the purposes of this Part, including all forms and instructions, unless the context otherwise requires:

(a) The term "Act" shall mean the Securities Exchange Act of 1934, 15 U.S.C. 78 et seq.;

(b) The term "Board" shall mean the Municipal Securities Rulemaking Board;

(c) The term "Commission" shall mean the Securities and Exchange Commission;

(d) The term "bank municipal securities dealer" shall mean any bank or any subsidiary, department, or division of a bank referred to in § 10.1(a);

(e) Other terms used in this part shall have the meanings set forth in the Act, in the rules and regulations of the Commission, and in the rules of the Board, to the extent they are defined therein.

##### § 10.3 Filing of documents.

(a) All documents required to be filed with the Comptroller of the Currency in accordance with this Part are to be filed at the Office of the Comptroller of the Currency, Washington, D.C. 20219.

(b) Filing may be accomplished by direct delivery, through the mails, or otherwise. The date on which documents are actually received by the Comptroller of the Currency shall be the date of filing, but documents which are not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing.

(c) Acceptance of any document for filing shall not constitute any finding by the Comptroller of the Currency that the document has been completed in accordance with the applicable requirements, or that any information contained in the document is true, current, complete, or not misleading.

##### § 10.4 Application on Form MSD-4 for municipal securities principals and representatives; amendments; notice of termination on Form MSD-5.

(a) *Application requirement.* (1) The Form MSD-4 referred to in this Part is prescribed by the Comptroller of the Currency as an appropriate means of carrying out the purposes of paragraph (b) of Rule G-7 of the Board, "Information Concerning Associated Persons."

(2) On and after September 15, 1977, no bank municipal securities dealer shall permit a person to be associated with it as a municipal securities principal or municipal securities representative unless:

(i) An application on Form MSD-4, "Uniform Application for Municipal Se-

curities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," has been completed and signed in accordance with the instructions which accompany the form, and has been submitted to the bank municipal securities dealer by that person; and

(ii) The bank municipal securities dealer has filed the original and two copies of the Form MSD-4 with the Comptroller of the Currency.

(b) *Amendments.* (1) The information reported on Form MSD-4 shall be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported. Intentional misstatements or omissions of fact may be violations of Federal criminal law.

(2) (i) If any information reported on a Form MSD-4 becomes materially inaccurate or incomplete, the applicant named in the Form MSD-4 shall provide the bank municipal securities dealer with a statement containing corrective information in accordance with paragraph (c) of Rule G-7 of the Board.

(ii) The bank municipal securities dealer, within ten days after receiving such a corrective statement, shall file three copies of the statement with the comptroller of the Currency, accompanied by an original and two copies of a transmittal letter which identifies the bank municipal securities dealer, the affected applicant, and the corrective statements which are being transmitted, and which is signed by a municipal securities principal associated with the bank municipal securities dealer.

(c) *Notice of termination of association with a bank municipal securities dealer.* (1) Within thirty days after a person's association with a bank municipal securities dealer as a municipal securities principal or municipal securities representative is terminated, the bank municipal securities dealer shall prepare and file with the Comptroller of the Currency an original and two copies of a notice of that termination on Form MSD-5, "Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer," in accordance with the instructions which accompany the form.

(2) A Form MSD-5 filed in accordance with this paragraph must include such details as may be necessary to make the information contained in the form true, current, complete, and not misleading. Intentional misstatements or omissions of fact may be violations of Federal criminal law.

(d) *Record retention; filings under the Act.* (1) A bank municipal securities dealer shall retain for its own records copies of all its Part 10 filings relating to any given associated person for at least three years after that person's association is terminated.

(2) Every Form MSD-4, Form MSD-5, amendment, and related document filed with the Comptroller of the Currency in accordance with this part shall constitute a filing with the Commission for

purposes of section 17(c)(1) of the Act and a "report," "application," or "document" within the meaning of section 32(a) of the Act.

#### FORMS

### § 10.41 Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-4).

#### INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD-4

##### GENERAL INSTRUCTIONS

1. As used in these instructions and Form MSD-4:

a. The term bank municipal securities dealer means a municipal securities dealer which is a bank or a subsidiary or department or division of a bank.

b. The term applicant means a person who is or seeks to be associated with a bank municipal securities dealer as a municipal securities principal or municipal securities representative.

2. Form MSD-4 is to be used by bank municipal securities dealers and persons who are or seek to be associated with such dealers as municipal securities principals or municipal securities representatives to comply with Municipal Securities Rulemaking Board Rule G-7, "Information Concerning Associated Persons," and rules and regulations of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation which require the filing of Form MSD-4.

3. Bank municipal securities dealers are required to file Form MSD-4 with the appropriate regulatory agency as set forth below:

a. A bank municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or department or division of any such bank is required to file with the Board of Governors of the Federal Reserve System.

b. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

c. A bank municipal securities dealer which is a national bank or bank operating under the Code of Law for the District of Columbia or a subsidiary or a department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD-4 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD-4 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3. A bank municipal securities dealer filing Form MSD-4 shall retain an exact copy in its records for at least three years after the applicant's employment or other association with such dealer has terminated.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the applicant and the bank municipal securities

dealer should appear on every attachment sheet.

7. Form MSD-4 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD-4 on white 8½ by 11 inch paper.

8. Form MSD-4 shall be manually signed on page one by a municipal securities principal of the employing bank municipal securities dealer and on page three by the applicant.

9. All items on Form MSD-4 are to be completed, except that disclosure of one's social security number is not mandatory. The date on which the Form MSD-4 is received by the appropriate regulatory agency shall be the date of filing. A Form MSD-4 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD-4 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

#### INSTRUCTIONS TO SPECIFIC ITEMS ON FORM MSD-4

11. Items 2 through 8 are to be completed by the bank municipal securities dealer employing or proposing to employ the applicant named in Item 1. All other items are to be completed by the applicant.

12. Item 3: Give the address of the office of the bank municipal securities dealer in which the applicant is or will be employed.

13. Item 5: Indicate the appropriate regulatory agency as set forth in Instruction 3.

14. Item 6: Municipal Securities Rulemaking Board Rule G-3, "Classification of Principals and Representatives; Numerical Requirements; Testing," provides a description of the functions performed by a municipal securities principal or municipal securities representative.

15. Item 8: This item need not be completed if the applicant was employed by the bank municipal securities dealer named in Item 2 on December 3, 1978, and continuously thereafter in the capacity or capacities for which qualification is requested in Item 6.

16. Item 17: All time periods must be accounted for.

17. Item 26: (a) Although this item relates only to convictions during the past ten years, it should be noted that section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) prohibits any insured bank, except with the written consent of the Federal Deposit Insurance Corporation, from employing any person who has ever been convicted of a criminal offense involving dishonesty or breach of trust.

(b) Paragraph (iv) of this item relates only to convictions within the past ten years under sections 152, 1341, 1342, 1343 or Chapters 25 or 47 of Title 18, United States Code.

RULES AND REGULATIONS

Form MSD-4

Page 1 of 3

UNIFORM APPLICATION FOR MUNICIPAL SECURITIES PRINCIPAL OR  
MUNICIPAL SECURITIES REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL  
SECURITIES DEALER

1. APPLICANT NAME \_\_\_\_\_  
LAST FIRST MIDDLE (If none, so specify)

2. BANK MUNICIPAL SECURITIES DEALER:

A. NAME \_\_\_\_\_  
B. REGISTRATION NUMBER \_\_\_\_\_  
C. MAIN ADDRESS \_\_\_\_\_

3. OFFICE OF EMPLOYMENT OF APPLICANT \_\_\_\_\_

4. DATE OF EMPLOYMENT OF APPLICANT \_\_\_\_\_

5. TO BE FILED WITH THE FOLLOWING (Indicate One):

Board of Governors of the Federal Reserve System   
Comptroller of the Currency   
Federal Deposit Insurance Corporation

6. TYPE(S) OF QUALIFICATION REQUESTED: Municipal Securities Representative   
Municipal Securities Principal

7. It is anticipated that the applicant will perform the following functions in the capacity indicated:

	Capacity	
	Supervisory	Non-Supervisory
A. Underwriting, trading or sales of municipal securities:	<input type="checkbox"/>	<input type="checkbox"/>
B. Financial advisory or consultant services for issuers in connection with the issuance of municipal securities:	<input type="checkbox"/>	<input type="checkbox"/>
C. Research or investment advice with respect to municipal securities in connection with the activities described in (A) and (B) above:	<input type="checkbox"/>	<input type="checkbox"/>
D. Activities other than those specifically mentioned which involve communication, directly or indirectly, with public investors in municipal securities in connection with the activities described in (A) and (B) above:	<input type="checkbox"/>	<input type="checkbox"/>
E. Processing and clearance activities with respect to municipal securities:	<input type="checkbox"/>	N/A
F. Maintenance of records involving activities described in (A) through (E) above:	<input type="checkbox"/>	N/A
G. Training of municipal securities principals or municipal securities representatives:	<input type="checkbox"/>	N/A

8. For the purpose of verifying the information furnished on this form by the applicant named in Item 1 above, this institution has made inquiry of all employers of the applicant during the immediately preceding three years, as set forth below, concerning the accuracy and completeness of the information provided, as well as the record and reputation of the applicant as related to the ability to perform the duties for which employed or to be employed:

EMPLOYER	NAME AND POSITION OF PERSON CONTACTED

Date \_\_\_\_\_ Print Name of Municipal Securities Principal \_\_\_\_\_ Signature of Municipal Securities Principal \_\_\_\_\_

DO NOT WRITE BELOW

Experience \_\_\_\_\_ Clearance \_\_\_\_\_  
Further Training Required \_\_\_\_\_ Exam Taken: Date \_\_\_\_\_  
Exam Required \_\_\_\_\_ Grade \_\_\_\_\_  
Issue \_\_\_\_\_ Date Approved: Cond. \_\_\_\_\_  
Exam Grade OK \_\_\_\_\_ Final \_\_\_\_\_

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001, 1005, and 1007 and 15 U.S.C. 78ff.)



IF THE ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS YES, ATTACH COMPLETE DETAILS:

21. Have you ever been refused coverage under a fidelity bond or has any surety company paid out any funds on your coverage or cancelled such coverage?  
Yes \_\_\_\_\_ No \_\_\_\_\_
22. Have you ever been denied membership, registration, license, permit, or certification by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?  
Yes \_\_\_\_\_ No \_\_\_\_\_
23. Has any disciplinary action ever been taken against you, or any sanction imposed upon you, including any finding that you were a cause of any disciplinary action or violated any law, rule or regulation or were an aider, abettor or co-conspirator in any such violation, by any federal or state securities or federal or state bank regulatory agency, any national securities exchange, registered securities association, or registered clearing agency?  
Yes \_\_\_\_\_ No \_\_\_\_\_
24. While you were associated in any capacity with any broker, dealer or municipal securities dealer:
- A. Was its registration denied, suspended or revoked?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- B. Was its membership in any national securities exchange, registered securities association, or registered clearing agency denied, suspended, or revoked, or was it expelled from any such organization?  
Yes \_\_\_\_\_ No \_\_\_\_\_
25. Has any permanent or temporary injunction (including a cease and desist order) ever been entered against you or against any broker, dealer, or municipal securities dealer with which you were associated in any capacity when such injunction was entered enjoining conduct as an investment adviser, underwriter, broker, dealer or municipal securities dealer or as an affiliated person of any investment company, bank or insurance company, or any conduct related to such activities or any transactions in any security?  
Yes \_\_\_\_\_ No \_\_\_\_\_
26. Have you been convicted within the past ten years of any felony or misdemeanor: (i) involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, or conspiracy to commit any such offense; (ii) arising out of the conduct of the business of a broker, dealer, municipal securities dealer, investment adviser, bank, insurance company, or fiduciary; (iii) involving larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; (iv) involving crimes of concealment of assets, false oaths or claims or bribery in a bankruptcy proceeding, mail fraud, fraud by wire including telephone, telegraph, radio or television, fraud or false statements?  
Yes \_\_\_\_\_ No \_\_\_\_\_

Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

FORM MSD-4 ACKNOWLEDGMENT

27. Applicant Name \_\_\_\_\_
28. Bank Municipal Securities Dealer Name \_\_\_\_\_
29. Bank Municipal Securities Dealer Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
30. Attention: \_\_\_\_\_

Receipt Stamp

WHEN THE FORM MSD-4 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 30. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

**§ 10.42 Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-5).**

**INSTRUCTIONS FOR COMPLETING AND FILING FORM MSD-5**

1. As used in these instructions and Form MSD-5, the term bank municipal securities dealer means a municipal securities dealer which is a bank or a subsidiary or department or division of a bank.

2. Form MSD-5 is intended for use by bank municipal securities dealers in reporting the termination of a municipal securities principal's or municipal securities representative's association with such a dealer.

3. Bank municipal securities dealers are required to file Form MSD-5 with the appropriate regulatory agency as set forth below:

a. A bank municipal securities dealer which is a State member bank of the Federal Reserve System or a subsidiary or department or division of any such bank is required to file with the Board of Governors of the Federal Reserve System.

b. A bank municipal securities dealer which is a bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary or department or division of any such bank is required to file with the Federal Deposit Insurance Corporation.

c. A bank municipal securities dealer which is a national bank or bank operating

under the Code of Law for the District of Columbia or a subsidiary or department or division of any such bank is required to file with the Comptroller of the Currency.

4. Copies of Form MSD-5 may be obtained from any one of the appropriate regulatory agencies listed in Instruction 3.

5. An original and two copies of Form MSD-5 and any attachments are to be filed with the appropriate regulatory agency listed in Instruction 3 within 30 days after termination of the association of the individual named in Item 1. A bank municipal securities dealer filing Form MSD-5 shall retain an exact copy in its records for at least three years following the termination.

6. If more space is needed to complete an answer, an appropriate designation shall be entered in the answer space provided, and one or more attachment sheets shall be used to complete the response. All attachments shall be submitted in the same format as the items to which response is made and should be typed on white 8½ by 11 inch paper. Answers to more than one question may appear on an attachment sheet if the questions are clearly identified. Attachments should be paginated and the name of both the person terminated and the bank municipal securities dealer should appear on every attachment sheet.

7. Form MSD-5 and any attachments may be duplicated by any method which produces legible copies of type size identical to that of the Form MSD-5 on white 8½ by 11 inch paper.

8. Form MSD-5 shall be manually signed by a municipal securities principal of the employing bank municipal securities dealer.

9. All items on Form MSD-5 are to be completed, except that disclosure of the individual's social security number is not required if that information is unavailable. The date on which the Form MSD-5 is received by the appropriate regulatory agency shall be the date of filing. A Form MSD-5 which is not prepared and executed in accordance with the applicable requirements may be returned as unacceptable for filing. Acceptance for filing shall not constitute any finding that a Form MSD-5 has been completed in accordance with those requirements or that any information reported on the form is true, current, complete, or not misleading.

10. Section 17(c)(1) of the Securities Exchange Act of 1934 requires every bank municipal securities dealer which files any application, notice, report, or document with its appropriate regulatory agency to file a copy of that application, notice, report, or document with the Securities and Exchange Commission. The Securities and Exchange Commission and the appropriate regulatory agencies listed in Instruction 3 have developed procedures under which the latter will transmit a copy of any application, notice, report, or document filed with them by a bank municipal securities dealer to the Securities and Exchange Commission. Accordingly, when this form is filed with the appropriate regulatory agency, it will be deemed to have been filed with the Securities and Exchange Commission.

FORM MSD-5

UNIFORM TERMINATION NOTICE FOR MUNICIPAL SECURITIES PRINCIPAL OR MUNICIPAL SECURITIES REPRESENTATIVE ASSOCIATED WITH A BANK MUNICIPAL SECURITIES DEALER

- 1. INDIVIDUAL'S NAME LAST FIRST MIDDLE... 2. CAPACITY: PRINCIPAL REPRESENTATIVE 3. SOCIAL SECURITY NUMBER 4. BANK MUNICIPAL SECURITIES DEALER: A. NAME B. REGISTRATION NUMBER C. MAIN ADDRESS 5. OFFICE OF EMPLOYMENT ADDRESS 6. DATE TERMINATED 7. REASON FOR TERMINATION - CHECK ONE: RESIGNED DECEASED DISCHARGED OTHER

\*FURNISH FULL DETAILS ON ATTACHED SHEET IF RELATED TO A VIOLATION OR PROBABLE VIOLATION OF BANKING OR SECURITIES LAW.

8. While associated, was the individual the subject of any investigation, proceeding, disqualification or disciplinary action by any governmental agency or self-regulatory organization... described in Rules G-4 and G-5 of the Municipal Securities Rulemaking Board?

\*\*Yes No

\*\*FURNISH FULL DETAILS ON ATTACHED SHEET.

Date Print Name of Municipal Securities Principal Signature of Municipal Securities Principal

PERSON TO CONTACT FOR FURTHER INFORMATION

ACCEPTANCE OF THIS FORM FOR FILING SHALL NOT CONSTITUTE ANY FINDING THAT THE INFORMATION SUBMITTED HEREIN IS TRUE, CURRENT, COMPLETE, OR NOT MISLEADING. INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT MAY CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. (See 18 U.S.C. 1001 and 1005, and 15 U.S.C. 78ff.)

FORM MSD-5 ACKNOWLEDGMENT.

Receipt Stamp

- 9. NAME OF PERSON TERMINATED 10. BANK MUNICIPAL SECURITIES DEALER NAME 11. BANK MUNICIPAL SECURITIES DEALER ADDRESS 12. ATTENTION

WHEN THE FORM MSD-5 IS RECEIVED BY THE APPROPRIATE REGULATORY AGENCY, THIS ACKNOWLEDGMENT WILL BE STAMPED TO SHOW RECEIPT AND RETURNED TO THE PERSON NAMED IN ITEM 12. THE STAMPED ACKNOWLEDGMENT SHOULD BE RETAINED TO SUBSTANTIATE FILING.

Dated: August 23, 1977.

JOHN G. HEIMANN, Comptroller of the Currency.

[FR Doc.77-26068 Filed 9-8-77; 8:45 am]

## DEPARTMENT OF THE TREASURY

Comptroller of the Currency

## PRIVACY ACT OF 1974

## Notice of Adoption of System of Records

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Adoption of a new system of records.

**SUMMARY:** The Comptroller of the Currency ("Comptroller") has adopted a new system of records, first proposed on March 30, 1977 (42 FR 16882), to aid its enforcement of the professional qualification rules of the Municipal Securities Rulemaking Board ("MSRB"). These rules affect certain persons who are or seek to be associated with national and District of Columbia bank municipal securities dealers. The new system of records will give the Comptroller an adequate data base to carry out its statutory enforcement responsibilities in this area.

DATE: This system of records will go into operation on October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold I. Freilich, Securities Disclosure Division, Comptroller of the Currency, Washington, D.C. 20219 (202-447-1954).

**SUPPLEMENTARY INFORMATION:** This system of records was published for comment in connection with proposed regulations contained in a new 12 CFR Part 10, which was also published for comment on March 30, 1977, at 42 FR 16813. The Comptroller urges interested persons to read the preamble to that document to gain a better understanding of the legislative and regulatory background which gave rise to Part 10 and this system of records.

The Comptroller has now adopted 12 CFR Part 10 with changes, as detailed elsewhere in this issue of the FEDERAL REGISTER. Part 10 requires national and District of Columbia bank municipal securities dealers to file with the Comptroller certain personal and professional information about those persons who are or seek to be associated with these dealers as municipal securities principals or representatives. Part 10 includes two forms, with instructions, designed for collection of the required information which will be the basis of this system of records. The Comptroller considers Part 10 and its complementary record system to be an appropriate means of enforcing the MSRB professional qualification rules, in keeping with the statutory allocations of responsibility for municipal securities regulation contained in section 15B of the Securities Exchange Act of 1934, 15 U.S.C. 78o-4.

## DISCUSSION OF COMMENTS

As adopted, this system of records contains two changes made in response to comments received. The first corrects the address at which computerized files will be maintained, and the second, under

the caption Retention and Disposal, alters the retention period of records in the system. As proposed, retention was to be for the life of an individual covered by the system. This provision now states that records will be maintained "indefinitely." This change avoids a specific time frame and allows the Comptroller to dispose of a given individual's record much sooner, if warranted. For obvious reasons, it should not result in the maintenance of a record beyond the life of any individual.

No other direct comments were received in response to the Comptroller's March 30, 1977, notice of this system of records. The Comptroller did receive several comments on proposed 12 CFR Part 10 itself which dealt with Privacy Act issues, and the preamble to the adopted Part 10 found in the "Regulations" section of this issue of the FEDERAL REGISTER discusses those comments.

## ADOPTION OF SYSTEM

The Comptroller finds that the changes made in the system of records as originally proposed respond to public comments, and thus further public participation prior to adoption of the system is unnecessary. The Comptroller has determined that the requirements of the Privacy Act of 1974 (Pub. L. 93-579; 5 U.S.C. 552a) have been and are being complied with in connection with the establishment of this system of records, and has adopted the system in the following form:

## TREASURY/COMPTROLLER—00.221

System name:

Treasury/Comptroller — Professional Qualifications Records for Municipal Securities Principals and Municipal Securities Representatives.

System location:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219. Records stored in computerized files are maintained off-premises at the National Association of Securities Dealers, 1735 "K" Street NW., Washington, D.C. 20006.

Categories of individuals covered by the system:

Persons who are or seek to be associated with a municipal securities dealer which is a national or District of Columbia bank, or a department, division, or subsidiary of any such bank, in the capacity of municipal securities principals or municipal securities representatives.

Categories of records in the system:

These records contain identifying information, detailed educational and occupational histories, certain professional qualifications examination information, disciplinary histories, and information concerning the termination of employment of individuals covered by the system. Identifying information includes names, address history, date and place of birth, and may include social security number.

Authority for maintenance of the system:

Section 15B(c) (5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c) (5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information contained in these records may be subject to the following uses:

(a) Referral to the appropriate governmental authority, whether Federal, State, local, or foreign, or to the appropriate self-regulatory organization, of such information as may indicate a violation or potential violation of law, regulation or rule.

(b) Referral to the appropriate court, magistrate, or administrative law judge of such information as may be relevant to proceedings before any such court or judicial officer.

(c) Disclosure of such information as may aid in the resolution of any action or proceeding:

(1) In which the Federal securities or banking laws are at issue;

(2) In which the propriety of any disclosure of information contained in the system is at issue; or

(3) To which the Comptroller of the Currency or a past or present member of its staff is a party or otherwise involved in an official capacity.

(d) Disclosure to a Federal, State, local, or foreign governmental authority, or to a self-regulatory organization, of such information as may be necessary to obtain from such authority or organization additional information concerning the qualifications of an individual covered by the system.

(e) Disclosure of such information as may be necessary to respond to a request from a Federal, State, local, or foreign governmental authority, or from a self-regulatory organization, for information needed in connection with the issuance of a license, granting of a benefit, or similar action by such authority or organization affecting an individual covered by the system.

(f) Disclosure of such information as may be necessary to respond to any Congressional inquiry undertaken at the request of an individual covered by the system.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records are maintained in file folders and on computer memory discs.

Retrievability:

Records are indexed by name of individual.

Safeguards:

File folders are stored in lockable metal cabinets and computer memory discs are accessed only by authorized personnel.

**Retention and disposal:**

Records may be maintained indefinitely. Disposal is by normal methods.

**System manager and address:**

Deputy Comptroller for Banking Operations, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

**Notification procedure:**

Inquiries, including name and date and place of birth, should be addressed

to the System Manager. Inquirers may be required to include a notarized statement attesting to identity.

**Record access procedure:**

Same as notification procedure.

**Contesting records procedure:**

Same as notification procedure.

**Record source categories:**

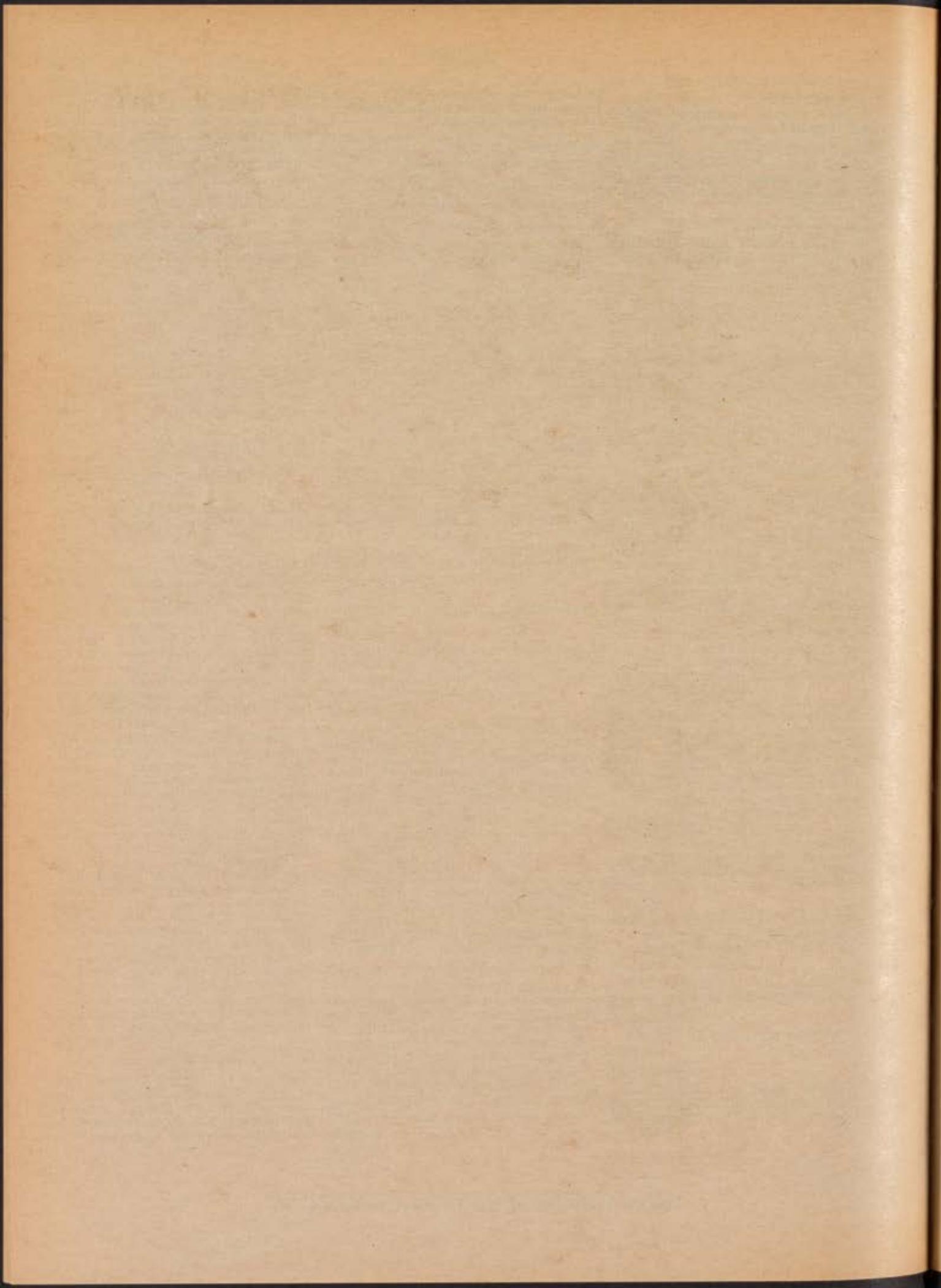
Those individuals and municipal securities dealers described in the section en-

titled *Categories of Individuals Covered by the System* provide the bulk of the information in the system. Additional input is provided by Federal, State, local, and foreign governmental authorities, and by self-regulatory organizations, which regulate the securities industry.

Dated: August 23, 1977.

JOHN G. HEIMMANN,  
Comptroller of the Currency.

[FR Doc.77-26069 Filed 9-8-77; 8:45 am]



**Register  
Federal Order**

**FRIDAY, SEPTEMBER 9, 1977**

**PART IV**



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**DEPARTMENT OF  
COMMERCE**

**National Oceanic and  
Atmospheric Administration**



**ESTUARINE SANCTUARY**

**Guidelines**

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[ 15 CFR Part 921 ]

## ESTUARINE SANCTUARY GUIDELINES

Policies and Procedures for Selection Acquisition and Management

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed rule.

**SUMMARY:** This proposed rule will allow the National Oceanic and Atmospheric Administration to make a preliminary acquisition grant to a State to undertake a fair market value appraisal, and to develop a uniform relocation act plan, a detailed management plan and a research framework for a proposed estuarine sanctuary, developed pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended.

**DATE:** Comments must be received on or before October 1, 1977.

## FOR FURTHER INFORMATION CONTACT:

Robert R. Kifer, Physical Scientist, Policy and Programs Development Office, Office of Coastal Zone Management, 3300 Whitehaven Parkway, Page One Building, Washington, D.C. 20235 (202-634-4241).

## SUPPLEMENTARY INFORMATION:

On June 4, 1974, The National Oceanic and Atmospheric Administration (NOAA) published 15 CFR Part 921 entitled, "Estuarine Sanctuary Guidelines" pursuant to then section 312 of the Coastal Zone Management Act of 1972, as amended, for the purpose of establishing policy and procedures for the selection, acquisition, and management of estuarine sanctuaries.

Under new subsection 315(1) of the Act, the Secretary of Commerce is authorized to make available to coastal States grants of up to 50 per centum of the cost of acquisition, development, and operation of estuarine sanctuaries. In general, subsection 315(1) provides that grants may be awarded to States on a matching basis to acquire, develop, and operate natural areas as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships within the area. The purpose of these guidelines is to implement this program.

As a result of two years of program implementation, the regulations are proposed to be modified to specifically authorize the granting of acquisition money to States in two stages:

(i) An initial grant for such preliminary purposes, as surveying and assessing the land to be acquired, and the development of management procedures and research programs; and

(ii) A second grant for the actual acquisition of the land. The Federal share of the sum of the two grants shall not

exceed 50 percent of the acquisition costs involved. Any State receiving an initial grant shall be obligated to repay it if, due to any fault of the State, the sanctuary is not established.

As a result of this new grant procedure, much more information relating to costs, values, management procedures, and research programs will be available at the time of the publication of a draft environmental impact statement. Proposals made public to date in the form of an Environmental Impact Statement (EIS) have been criticized for lack of specificity in these areas. By making a small preliminary acquisition grant to a State, the estuarine sanctuary proposal can be more fully developed and the public can become more aware of the costs and the exact nature of the long-term management.

In response to State questions about estuarine sanctuary research, the proposed regulations provide that such research can be funded if it can be shown to be related to program administration.

NOAA has reviewed these proposed regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment.

*Compliance with Executive Order 11821.* The economic and inflationary impact of these proposed regulations has been evaluated in accordance with OMB Circular A-107 and it has been determined that no major inflationary impact will result.

Dated: August 26, 1977.

T. P. GLEITER,  
Assistant Administrator  
for Administration.

It is proposed to amend 15 CFR Part 921 as follows:

(1) By revising the table of contents and authority citation to read as follows:

Subpart A—General	
Sec.	
921.1	Policy and objectives.
921.2	Definitions.
921.3	Objectives and implementation of the program.
921.4	Biogeographic classification.
921.5	Multiple use.
921.6	Relationship to other provisions of the Act and to marine sanctuaries.
Subpart B—Application for Grants	
921.10	General.
921.11	Application for preliminary acquisition grants.
921.12	Application for land acquisition grants.
921.13	Application for operational grants.
921.14	Federally-owned lands.
Subpart C—Selection Criteria	
921.20	Criteria for selection.
921.21	Public participation.
Subpart D—Operation	
921.30	General.
921.31	Changes in the sanctuary boundary, management policy, or research program.
921.32	Program review.

**AUTHORITY:** Sec. 315(1), Coastal Zone Management Act of 1972, as amended (90 Stat. 1030, (16 U.S.C. 1461) Pub. L. 94-370).

(2) By revising Subpart B—Application for Grants—as follows:

## Subpart B—Application for Grants:

## § 921.10 General.

Section 315 authorizes Federal grants to coastal States so that the States may establish sanctuaries according to regulations promulgated by the Secretary. Coastal States may file applications for grants with the Associate Administrator for Coastal Zone Management (OCZM), Office of Coastal Zone Management, Page 1, 3300 Whitehaven Parkway NW, Washington, D.C. 20235. That agency which has been certified to the Office of Coastal Zone Management as the entity responsible for administration of the State coastal zone management program may either submit an application directly, or must endorse and approve applications submitted by other agencies within the State.

## § 921.11 Application for preliminary acquisition grants.

(a) A grant may be awarded on a matching basis to cover costs necessary to preliminary actual acquisition of land. As match to the Federal grant, a State may use money, the cost of necessary services, the value of foregone revenue, and/or the value of land either already in its possession or acquired by the State specifically for use in the sanctuary. If the land to be used as match already is in the State's possession and is in a protected status, the State may use such land as match only to the extent of any revenue from the land foregone by the State in order to include it in the sanctuary. Application for a preliminary acquisition grant shall be made on form SF 424 application for Federal assistance (non-construction programs).

(b) A preliminary acquisition grant may be made for the defrayal of the cost of:

(1) An appraisal of the land, or of the value of any foregone use of the land, to be used in the sanctuary;

(2) The development of a Uniform Relocation Assistance and Real Property Acquisition Policies Act plan;

(3) The development of a sanctuary management plan;

(4) The development of a research and educational program; and/or,

(5) Such other activity of a preliminary nature as may be approved in writing by OCZM. Any grant made pursuant to this subsection shall be refunded by the State to whatever extent it has spent in relation to land not acquired for the sanctuary, and if OCZM requests such refund.

(c) The application should contain:

(1) Evidence that the State has conducted a scientific evaluation of its estuaries and selected one of those most representative.

(2) Description of the proposed sanctuary including location, proposed boundaries, and size. A map(s) should be included, as well as an aerial photograph if available.

(3) Classification of the proposed sanctuary according to the biogeographic scheme set forth in § 921.4.

(4) Description of the major physical, geographic, biological characteristics and resources of the proposed sanctuary.

(5) Demonstration of the necessary authority to acquire or control and manage the sanctuary.

(6) Description of existing and potential uses of, and conflicts within, the area if it were not declared an estuarine sanctuary; and potential use restriction and conflicts if the sanctuary is established.

(7) List of protected sites, either within the estuarine sanctuaries program or within other Federal, State, or private programs, which are located in the same region or biogeographic classification.

(8) The manner in which the State solicited the views of interested parties.

(9) In addition to the standard A-95 review procedures, the grant application should be sent to the State Historic Preservation Office for comment to insure compliance with section 106 of the National Preservation Act of 1966.

(d) In order to develop a truly representative scheme of estuarine sanctuaries, the States should coordinate their activities. This will help to minimize the possibility of similar estuarine types being proposed in the same region. The extent to which neighboring States were consulted should be indicated.

#### § 921.12 Application for land acquisition grants.

(a) Acquisition grants will be made to acquire land and facilities for estuarine sanctuaries that have been thoroughly described in a preliminary acquisition grant application, or where equivalent information is available. Application for an acquisition grant shall be made on SF 424 application for Federal assistance (construction program).

In general, lands acquired pursuant to this subsection are legitimate costs and their fair market value, developed according to Federal appraisal standards, may be included as match. The value of lands donated to the State and cash donations may also be used as match. If the State already owns land which is to be used in the sanctuary, the value of any use of the land foregone by the State in order to include such land in the sanctuary, capitalized over the next 20 years, may be used by the State as match. The value of lands purchased by a State within the boundaries of proposed sanctuaries while an application for a preliminary acquisition grant or land acquisition grant is being considered may also be used as match.

(b) An acquisition application should contain the following information:

(1) Description of any changes in proposed sanctuary from that presented in the preliminary acquisition grant application. If such an application has not been made, then, information equivalent to that required in such a grant application should be provided.

(2) Identification of ownership patterns, proportions of land already in the

public domain; fair market value appraisal and Uniform Relocation Act plan.

(3) Description of research programs, potential and committed research organizations or agencies, and benefits to the overall coastal zone management program.

(4) Description of proposed management techniques, including the management agency and proposed budget—including both State and Federal shares.

(5) Description of planned or anticipated land and water use and controls for contiguous lands surrounding the proposed sanctuary (including, if appropriate, an analysis of the desirability of creating a marine sanctuary in adjacent areas).

(6) Assessment of the environmental, and socio-economic impacts of declaring the area an estuarine sanctuary, including the economic impact on the surrounding community and its tax base.

(7) Discussion, including cost and feasibility of alternative methods for acquisition and protection of the area.

#### § 921.13 Application for operation grants.

(a) Although an acquisition grant application for creation of an estuarine sanctuary should include initial operation costs, subsequent applications may be submitted following acquisition and establishment of an estuarine sanctuary for additional operational funds. As indicated in § 921.11, these costs may include administrative costs necessary to monitor the sanctuary and to protect the integrity of the ecosystem. Extensive management programs, capital expenses, or research will not normally be funded by section 315 grants.

(b) After the creation of an estuarine sanctuary established under this program, applications (Form SF 424) for Federal assistance (non-construction program), for such operational grants should include at least the following information:

(1) Identification of the boundary (map).

(2) Specifications of the research and management programs, including managing agency and techniques.

(3) Detailed budget.

(4) Discussion of recent and projected use of the sanctuary.

(5) Perceived threats to the integrity of the sanctuary.

#### § 921.14 Federally-owned lands.

(a) Where Federally-owned lands are a part of or adjacent to the area proposed for designation as an estuarine sanctuary, or where the control of land and water uses on such lands is necessary to protect the natural system within the sanctuary, the State should contact the Federal agency maintaining control of the land to request cooperation in providing coordinated management policies. Such lands and State request, and the Federal agency response, should be identified and conveyed to the Office of Coastal Zone Management.

(b) Where such proposed use or control of Federally-owned lands would not

conflict with the Federal use of their lands, such cooperation and coordination is encouraged to the maximum extent feasible.

(c) Section 315 grants may not be awarded to Federally-owned lands; however, a similar status may be provided on a voluntary basis for Federally-owned lands under the provisions of the Federal Committee on Ecological Preserves program.

#### § 921.20 [Amended]

(4) Subpart C—Selection Criteria—is amended by changing the first sentence in § 921.20 to read: "Applications for preliminary acquisition or land acquisition grants to establish estuarine sanctuaries will be reviewed and judged on criteria including:"

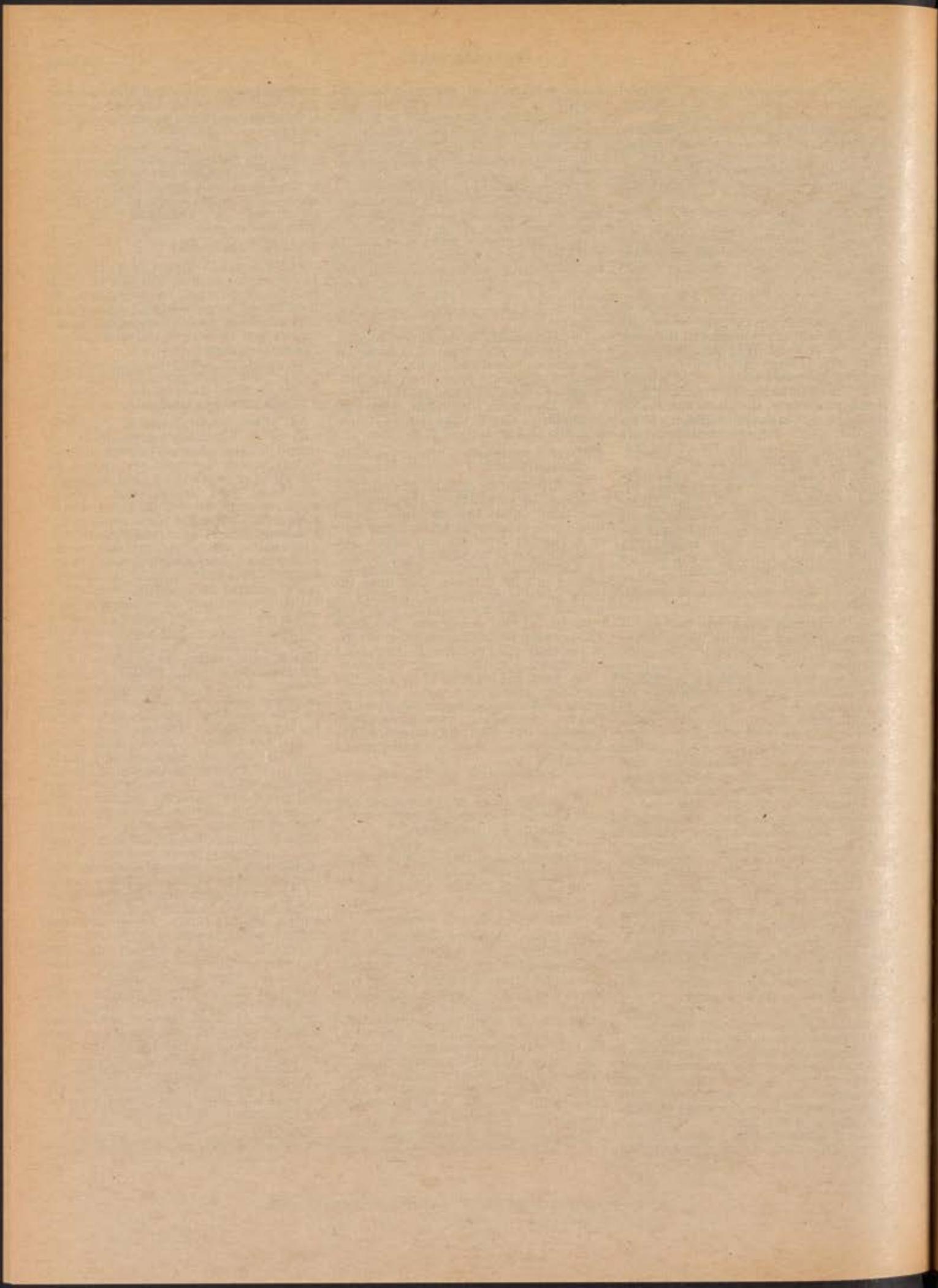
(5) Section 921.21 is revised, as follows:

#### § 921.21 Public participation.

(a) Public participation in the selection of an estuarine sanctuary is required. In the selection process, the selecting entity (see § 921.10) shall seek the views of possibly affected landowners, local governments, and Federal agencies, and shall seek the views of possibly interested other parties and organizations. The latter would include, but need not be limited to, private citizens and business, social, and environmental organizations in the area of the site being considered for selection. This solicitation of views may be accomplished by whatever means the selecting entity deems appropriate, but shall include at least one public hearing in the area. Notice of such hearing shall include information as to the time, place, and subject matter, and shall be published in the principal area media. The hearing shall be held no sooner than 15 days following the publication of notice.

(b) The Office of Coastal Zone Management (OCZM) shall prepare draft and final environmental impact statements pertaining to the site finally selected for the estuarine sanctuary following public participation in the selection of that site, and shall distribute these as appropriate. OCZM may hold a public hearing in the area of such site at which both the draft environmental impact statement (DEIS) and the merits of the site selection may be addressed by those in attendance. OCZM shall hold such a hearing if: (1) In its view, the DEIS is controversial, or (2) if there appears to be a need for further informing the public with regard to either the DEIS or one or more aspects of the site selected, or (3) if such a hearing is requested in writing (to either the selecting entity or (CZM) by an affected or interested party, or (4) for other good cause. If held, such hearing shall be held no sooner than 30 days following the issuance of the DEIS and no sooner than 15 days after appropriate notice of such hearing has been given in the area by OCZM with the assistance of the selecting entity.

[FR Doc.77-26123 Filed 9-8-77;8:45 am]



**Federal Register**

FRIDAY, SEPTEMBER 9, 1977

PART V



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**DEPARTMENT OF  
THE INTERIOR**

**Fish and Wildlife Service**



**ENDANGERED AND  
THREATENED WILDLIFE  
AND PLANTS**

**Final Threatened Status and Critical  
Habitat for Five Species of Southeastern  
Fishes**

## Title 50—Wildlife and Fisheries

## CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, BARTER, PURCHASE, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

## Final Threatened Status and Critical Habitat for Five Species of Southeastern Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rulemaking.

SUMMARY: The Service determines the following five species of fishes to be Threatened species and determines their Critical Habitat: Alabama cavefish (*Speoplatyrhinus poulsoni*), slender chub (*Hybopsis caini*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungii*), yellowfin madtom (*Noturus flavipinnis*). This action is being taken because of the threatened adverse modification of their habitat. In the past, destruction of habitat has greatly reduced populations of these species.

DATES: This final rulemaking becomes effective on October 11, 1977.

## FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On January 12, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 2507-2515) advising that sufficient evidence was on file to support a determination that the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom were Threatened species as provided for by the Act. That proposal summarized the factors thought to be contributing to the likelihood that these fishes could become Endangered within the foreseeable future; specified the prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b) (1) (A) of the Act requires that the Governor of each State, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governors of the States of Alabama, North Carolina, Tennessee, and Virginia, notifying them of the proposed rulemaking for the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom. A similar letter was sent to the State Conservation De-

partment of the States Involved. A memorandum was sent to the Service Director and affected Regional personnel, and other interested parties were contacted regarding this proposal.

## SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b) (1) (C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife.

In the January 12, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 2507-2515) and the associated January 16, 1977, News Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

Letters were received from 3 Federal agencies, the U.S. Forest Service, U.S. Soil Conservation Service, and the TVA. Four States, Alabama, North Carolina, Tennessee, and Virginia, submitted responses to the proposal. Comments were also received from the American Society of Ichthyologists and Herpetologists, the Sierra Club and two individuals.

The U.S. Soil Conservation Service raised questions regarding the total distribution of the slackwater darter in the southern bend of the Tennessee River system in Alabama and Tennessee. They suggested it might have a wider distribution but offered no supporting distributional data. They also suggested excluding all or portions of five streams in the Cypress Creek system as Critical Habitat. We agree, in part, and have so altered the Critical Habitat delineations to reflect these changes.

The U.S. Forest Service had no objection to the proposal. They did suggest that we contact Dr. H. T. Boschung for his input. The Fish and Wildlife Service did contact Dr. Boschung and obtained his data and recommendations.

The TVA had no objection to the proposed Threatened status for the five fishes. They did not feel that there was sufficient data to support Critical Habitat delineation for the fishes, except the Alabama cavefish.

The response from the Governor of Alabama indicated that he was basically in agreement with the proposal. The fisheries staff of the State of Alabama and the specialists they consulted were also in agreement with the proposal. They did indicate that the spotfin chub (*Hybopsis monacha*) had been extirpated in Alabama. They also submitted the results of a recent statewide symposium on Endangered and Threatened Plants and Animals of Alabama which referred to the Alabama cavefish (*Speoplatyrhinus poulsoni*) as an Endangered species. After considering all data, we do not feel that the degree of threat for the Alabama cavefish is sufficient to warrant an Endangered classification.

The State of North Carolina comments were restricted to the spotfin chub (*Hybopsis monacha*) Critical Habitat designation in Macon County, N.C. They were

interested in obtaining more information about the specific habitat requirements of the spotfin chub in order to more adequately evaluate the impacts of the possible development of a small flood control project. This information will be forwarded to the State of North Carolina.

Response from the State of Tennessee, Tennessee Wildlife Resources Agency, indicates they are in basic agreement with the proposed Threatened classification and Critical Habitat determination for the four species of fishes occurring in their State. The Tennessee Department of Public Health submitted comments relative to the existing industrial and domestic discharges emptying into the Powell and Clinch River.

The Governor of Virginia responded and had no objection to the proposed Threatened status and Critical Habitat determination for the three fishes occurring in the State of Virginia.

Two organizations, the American Society of Ichthyologists and Herpetologists and the Sierra Club supported the proposed listing and the Critical Habitat determination.

Two professional ichthyologists responded and both concur with findings presented in the proposal.

## CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom are likely to become Endangered throughout all or a significant portion of their range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (42 FR 2507-2515). Those factors were described as follows:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range:

The geographic range of the slackwater darter, *Etheostoma boschungii*—Proposed Threatened—is four tributaries to the southern bend of the Tennessee River in northern Alabama and southwestern Tennessee. It is known from one locality in the headwaters of the Buffalo River in Lawrence County, Tennessee; 19 localities in Cypress Creek drainage in Wayne County, Tennessee, and Lauderdale County, Alabama; three localities in Swan Creek in Limestone County, Alabama; and three localities in the Flint River drainage in Madison County, Alabama. Intensive collecting in adjacent drainages has failed to demonstrate the presence of the slackwater darter. The habitat of *Etheostoma boschungii* is small to medium-sized streams with moderate to slow current. It seems to prefer bottom conditions characterized by an accumulation of leaves and detritus, but in some areas it has been found in association with clean silt, sand, and small gravel substrates.

Over the past five years periodic sampling of the slackwater darter in the headwaters of the Buffalo River in Law-

rence County, Tennessee, has indicated that its population is extremely small and limited. In this area the species is confined to a short segment of a very small stream and the number of individuals in this population is apparently quite low. The population of *Etheostoma boschungii* in the Flint River drainage in Madison County, Alabama, is similarly small and limited. Changing land use patterns associated with the growth of the city of Huntsville, Alabama, jeopardizes the survival of the population in this system. The Swan Creek population is threatened by a stream channelization project.

Of the four stream systems inhabited by the slackwater darter the largest population and the stronghold of the species is in the Cypress Creek drainage system. As presently planned the proposed Soil Conservation Service project for the Cypress Creek Watershed will adversely affect the species. The project will result in the destruction of habitat through the construction of headwater impoundments, new channel excavations, bedload removal and other stream alterations.

Slender chub, *Hypobrycon cañni*—Proposed Threatened—is restricted to the Clinch and Powell Rivers in Tennessee above Norris Reservoir and is threatened by the coal industry effluents which are on the increase, municipal wastes and the continuing risk of chemical spillage including fly ash and sulfuric acid. A coal output of 30,000,000 tons is projected for this area by the year 2000. Many of the 24 authorized sewage dischargers are overloaded and not capable of producing an acceptable effluent under current water quality standards. Gravel removed from sand and gravel bars in the river channel and the resulting siltation is a threat at one locality.

Spotfin chub, *Hypobrycon monacha*—Proposed Threatened—is restricted to the Tennessee River drainage where it once occurred widely in twelve tributary systems distributed among five States, but is today known only from the lower North Fork of the Holston River, Virginia and Tennessee; in the Emory River, Clear Creek tributary of the Emory River System, Tennessee; and the upper Little Tennessee River, North Carolina. Only in the Emory River system is this species still abundant, although it appears to be recovering in the Little Tennessee River in North Carolina.

Threats to this species include runoff from coal mining, operations, municipal and industrial wastes, and siltation.

Yellowfin madtom, *Noturus flavipinnis*—Proposed Threatened—is restricted to the Powell River in Tennessee, and Copper Creek tributary to the Clinch River in Virginia. It was formerly known from Chikamauga Creek in Georgia, Hines Creek in Tennessee and the North Fork of the Holston River in Virginia. It is threatened by coal mining and coal washing in the Powell River, siltation and enrichment from agricultural operations in Copper Creek. The risk of chemical spillage where the rivers are crossed by major roads, is a potential threat.

Alabama cave fish, *Speoplatyrhinus poulsoni*—Proposed Threatened—is a blind, white, troglitic cave fish known only from a cave in Lauderdale County, Alabama. It may occur in other subterranean waters of the area, but is, definitely absent from nearby caves and other caves which were inundated by Pickwick Lake. It is threatened by disruption of the ecosystem through interference with bat populations and groundwater pesticide pollution due to agricultural operations. A proposed industrial park in this area constitutes an additional threat. Few eggs are produced per female and reproduction does not occur every year.

(2) Overutilization for commercial, sporting, scientific, or educational purposes. Not applicable.

(3) Disease or predation. Not applicable.

(4) The inadequacy of existing regulatory mechanisms. Not applicable.

(5) Other natural or man-made factors affecting its continued existence. Not applicable.

#### CRITICAL HABITAT

The Director has considered all comments and data submitted in response to the proposed determination of Critical Habitat for the slender chub, spotfin chub, slackwater darter, yellowfin madtom, and Alabama cavefish (42 FR 2507-2515). Based on this review, Critical Habitat for the slackwater darter has been reduced in the Cypress Creek system and eliminated in the Flint River system until additional data is obtained. This reduction in area is based on data presented by the biologists from the States of Alabama and Tennessee, the TVA, Fish and Wildlife Service, and ichthyologists from four colleges and universities in the State of Alabama.

#### EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. The regulations referred to above, which pertain to Endangered and Threatened species, are found in §§ 17.21 and 17.31 of Title 50 and are reprinted below:

#### Subpart C—Endangered Wildlife

##### § 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and

an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c) (1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c) (1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c) (1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was

taken in violation of paragraph (c) of this section.

*Example.* A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d) (1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

#### Subpart D—Threatened Wildlife

##### § 17.31 Prohibitions.

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart, all of the provisions in § 17.21 (a) through (c) (4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

The determination set forth in this final rulemaking also makes the Alabama cavefish, slender chub, spotfin chub, slackwater darter and yellowfin madtom eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

#### INTERAGENCY COOPERATION

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of the Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868-4875) to assist Federal agencies in complying with Section 7. Regulations which appear in Part 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

#### EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom to determine whether they should be proposed to the Secretariat of the Convention on Interna-

tional Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether they should be considered under other, appropriate international agreements.

#### NATIONAL ENVIRONMENTAL POLICY ACT

An Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531-1543; 87 Stat. 884), and was prepared by Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 1, 1977.

LYNN A. GREENWALD,  
Director,  
Fish and Wildlife Service.

Accordingly, Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Add the Alabama cavefish, slender chub, spotfin chub, slackwater darter, and yellowfin madtom to the list in § 17.11 under "fishes" as indicated below:

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes:							
Cavefish, Alabama	<i>Speoplistygninus poolei</i>	N/A	United States (Alabama)	Entire.....	T	28	N/A
Chub, slender.....	<i>Hybopsis cahnii</i>	N/A	United States (Tennessee, Virginia)	.....do.....	T	28	17.44(c)
Chub, spotfin.....	<i>Hybopsis monacha</i>	N/A	United States (Virginia, Tennessee, North Carolina)	.....do.....	T	28	17.44(c)
Darter, slackwater.....	<i>Etheostoma boschungii</i>	N/A	United States (Alabama, Tennessee)	.....do.....	T	28	17.44(c)
Madtom, yellowfin.....	<i>Noturus flavipinnis</i>	N/A	United States (Tennessee, Virginia)	.....do.....	T	28	17.44(c)

2. Add a new paragraph (c) to § 17.44 as follows:

(c) Slender chub (*Hybopsis cahnii*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungii*), and yellowfin madtom (*Noturus flavipinnis*).

(1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

#### Subpart I—Interagency Cooperation

§§ 17.90-17.94 [Reserved]

§ 17.95 Critical habitat—fish and wildlife.

The following areas (exclusive of those existing man-made structures or settle-

ments which are not necessary to the normal needs or survival of the species) are Critical Habitat for the species indicated. Pursuant to Section 7 of the Act, all Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of these areas:

(e) Fishes.

**Slender Chub (*Hybopsis calini*).**  
 Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line. Clinch River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.  
 Virginia. Lee and Scott Counties. Powell River, main channel from the Tennessee-Virginia State line upstream through Lee County, Va. Clinch River, main channel from the Tennessee-Virginia State line upstream through Scott County, Va.

**Slackwater Darter (*Etheostoma boschungii*).**  
 Alabama. Lauderdale County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress Creek and its tributaries upstream from the junction of Burcham Creek, including Burcham Creek, excluding Threet Creek and its tributaries.  
 Tennessee. Wayne County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress and Middle Cypress Creek drainage.



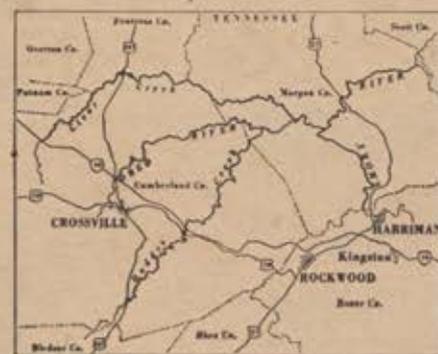
CRITICAL HABITAT FOR THE SLENDER CHUB

**Spottfin Chub (*Hybopsis monacha*).**  
 North Carolina. Macon and Swain Counties. Little Tennessee River, main channel from the backwaters of Fontana Lake upstream to the North Carolina-Georgia State line.



CRITICAL HABITAT FOR THE SPOTFIN CHUB

Tennessee. Cumberland, Fentress, and Morgan Counties. Emory and Obed Rivers and Clear and Daddys Creek in Morgan County. Clear Creek in Fentress County. Obed River upstream to U.S. Interstate Highway 40, Clear Creek upstream to U.S. Interstate Highway 40 and Daddys Creek upstream to U.S. Highway 127 in Cumberland County.



CRITICAL HABITAT FOR THE SPOTFIN CHUB

Tennessee. Hawkins and Sullivan Counties. North Fork Holston River, main channel from junction with South Fork Holston River to the Tennessee-Virginia State line.

Virginia. Scott and Washington Counties. North Fork Holston River, main channel from the Virginia-Tennessee State line upstream through Scott and Washington Counties.



CRITICAL HABITAT FOR THE SPOTFIN CHUB



CRITICAL HABITAT FOR THE SLACKWATER DARTER

Tennessee. Lawrence County. Buffalo River and its tributaries in Lawrence County, Tenn.



CRITICAL HABITAT FOR THE SLACKWATER DARTER

**Yellowfin Madtom (*Noturus flavipinnis*).**  
 Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.  
 Virginia. Lee, Scott, and Russell Counties. Powell River, main channel from the Virginia-Tennessee State line upstream through Lee County, Copper Creek, main channel from its junction with Clinch River upstream through Scott County and upstream in Russell County to Dickensonville.

## RULES AND REGULATIONS



CRITICAL HABITAT FOR THE YELLOWFIN MADTOM

Alabama Cavefish (*Speoplatyrhinus poulsoni*).

Alabama, Lauderdale County. More specific locality data for Federal agencies fulfilling their obligations under Section 7 of the En-

dangered Species Act of 1973 can be obtained from the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

[FR Doc.77-26182 Filed 9-8-77; 8:45 am]

**Federal Register**

FRIDAY, SEPTEMBER 9, 1977

PART VI



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OFFICE OF THE  
SPECIAL  
REPRESENTATIVE  
FOR TRADE  
NEGOTIATIONS

■  
GENERALIZED SYSTEM  
OF PREFERENCES

Reviews Pertaining to Eligibility of  
Articles

## Title 15—Commerce and Foreign Trade

## CHAPTER XX—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

## PART 2007—REVIEWS PERTAINING TO ELIGIBILITY OF ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

## Revision

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Final rulemaking.

SUMMARY: This action constitutes a substantial revision of regulations dealing with the Generalized System of Preferences as provided for by Title V of the Trade Act of 1974. The new Part 2007 contains guidance and procedural requirements for parties requesting modifications to the list of articles eligible for the GSP duty-free treatment, and a timetable for future reviews of the GSP product eligibility. The regulations published below also supersede the "Guidance for Petitioners" set forth in the FEDERAL REGISTER of Monday, October 18, 1976 (41 FR 45923).

DATES: Effective Monday, September 12, 1977. Comments are due on or before October 3, 1977.

ADDRESS: Send written comments on the regulations in duplicate to: Office of the Special Representative for Trade Negotiations, Room 715, ATTN: GSP Regulations Public Comments File, 1800 G Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

C. Michael Hathaway, Office of the General Counsel, or Doral Cooper, Executive Director, GSP Subcommittee, TPSC, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506. Telephone 202-395-3432 or 395-6971.

**SUPPLEMENTARY INFORMATION:** The regulations set forth below are considered procedural in nature, and hence exempt from the requirements of 5 U.S.C. 553. Accordingly, the regulations are final as published herein on the day following the date of publication of the regulations in the FEDERAL REGISTER. The Office of the Special Representative for Trade Negotiations, nevertheless, invites written comments on the regulations, on or before October 3, 1977, and will consider carefully any comments received.

1. The effect of this action on the next full review of products covered by the GSP is set forth in a FEDERAL REGISTER notice accompanying this publication.

2. The following new Part 2007 supersedes the existing Part 2007 which was published on December 31, 1975 (40 FR 60042). Accordingly, 15 CFR Part 2007 is revised to read as follows:

Sec.	
2007.0	Requests for reviews.
2007.1	Information required in requests and other submissions.
2007.2	Action following receipt of requests.
2007.3	Timetable for reviews.
2007.4	Publication regarding requests.

Sec.	
2007.5	Written briefs and oral testimony.
2007.6	Information open to public inspection.
2007.7	Information exempt from public inspection.
2007.8	Other reviews of article eligibilities.

AUTHORITY: 19 U.S.C. 2461-2465, 88 Stat. 2066-2071; E.O. 11846 of March 27, 1975, 40 FR 14291, March 31, 1975.

## § 2007.0 Requests for reviews.

(a) An interested party or foreign government may submit a request (1) that additional articles be designated as eligible for the GSP; or (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended or limited; or (3) that product coverage be otherwise modified.

(b) An interested party or foreign government may also make submissions supporting, opposing, or otherwise commenting on a request.

(c) An interested party is defined as a party who has a significant economic interest in the subject matter of the request, or any other party representing a significant economic interest that would be materially affected by the action requested, such as a domestic producer of a like or directly competitive article, a commercial importer or retailer of an article which is eligible for the GSP, or for which such eligibility is requested.

(d) All requests and other submissions should be submitted in 20 copies, and should be addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506. Requests by foreign governments may be made in the same manner as by an interested party. Alternatively, such a request may be made by diplomatic correspondence and may be accepted by the Trade Policy Staff Committee (TPSC) on its own motion.

(e) The TPSC may, on its own motion, propose any of the actions described in § 2007.0(a).

## § 2007.1 Information required in requests and other submissions.

A request submitted pursuant to this Part, hereinafter also referred to as a petition, shall state clearly on the first page that it is a request for action with respect to the provision of duty-free treatment for an article or articles under the GSP, and shall contain, in addition to any other information specifically requested, the following information:

(1) The name of the petitioner, the person, firm, or association represented by the petitioner, and a brief description of the interest of the petitioner affected by the GSP;

(2) An identification of the product or products of interest to the petitioner, both by description and by item number of the Tariff Schedules of the United States;

(3) A description of the action requested, together with a statement of the reasons therefor and supporting information, and a statement of whether the reasoning and information has been pre-

sented to the TPSC previously on behalf of the interest represented in the request;

If the request constitutes the resubmission of a request made previously, it must include either new information which indicates changed circumstances, or a rebuttal of the factors supporting the denial of the previous request;

(4) If the action requested is the designation of an additional article or articles as eligible for the GSP, a statement of why such article or articles should be so designated, together with specific information on: (i) how the GSP treatment would affect the petitioner's business and the industry producing like or directly competitive articles in the United States, including information on how the requested action would affect competition in that industry; (ii) the source of petitioner's competition and the markets and firms supplied by both the petitioner and competitor firms; and (iii) any other available information such as that referred to in § 2007.1(5) below;

(5) If the action requested is the withdrawal, suspension, or limitation of duty-free treatment accorded under the GSP to an eligible article or articles, information sufficient to show for the relevant United States industry:

- (i) The actual production;
- (ii) The production capacity;
- (iii) The number, type, wage rate, and location of employees, and the changes therein;
- (iv) The quantity, value, and destination of sales;
- (v) The profitability, including that for the particular branch of the firm(s) producing the specific product(s);
- (vi) A cost analysis, including the cost of materials, labor, and overhead;
- (vii) The number and location of firms;
- (viii) The identity of competitors, the competitive situation in the United States, and the effect imports receiving duty-free treatment under the GSP have on competition and the business of the interest on whose behalf the request is made; and

(ix) The name of each beneficiary developing country which exports the relevant product(s) to the United States;

(x) And any other relevant information.

This information should be submitted with the request for each product that is the subject of a request, both for the single firm making the request, and to the extent possible, for the industry to which the request pertains. The information should be submitted for each year beginning with the third year prior to the relevant GSP product designation and continuing through the present year. In determining whether the information submitted is adequate, due regard will be given to the ability of the party making the request to obtain information.

(6) Requests by foreign governments, whether in the form of a petition or diplomatic correspondence, should be supported by specific information for each product requested on the current status in the foreign country of production, capacity, employment, prices, and sales together with an analysis of how those

factors might change in the future both with and without the GSP treatment of the product. In addition, foreign governments should, if available and appropriate, submit the information requested of interested parties.

(7) Submissions made by persons in support or opposition to a request made under this Part should conform to the requirements for requests contained in §§ 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3), and should supply such other relevant information as is available.

**§ 2007.2 Action Following Receipt of Requests.**

(a) If the request does not conform to the requirements set forth above, or if it is clear from available information that the request does not warrant further consideration, the request may be returned together with a written statement of the reasons why it was found not to conform, or did not warrant further consideration. Requests which conform to these regulations, or which do not so conform but are deemed to present sufficient information upon which to proceed, and for which further consideration is deemed to be warranted, shall be accepted for review. In making the determination of adequacy of a request, due regard will be given for the ability of the requesting party to supply the information solicited under this Part. Parties making requests prior to the deadline for receiving requests for review (see section 2007.3) whose requests are not accepted for review will be informed of such non-acceptance, and may be given additional time, up to the final announcement of accepted petitions, to correct the defect, or rebut the determination that further review is not warranted.

(b) In conducting reviews, the TPSC may hold public hearings.

(c) The GSP Subcommittee of the TPSC shall conduct the first level of interagency consideration under this Part, and shall submit the results of its review to the TPSC.

(d) The TPSC shall review the work of the GSP Subcommittee and shall conduct, as necessary, further reviews of requests submitted and accepted under this Part. Unless subject to additional review, the TPSC shall prepare recommendations for the President on any modifications to the GSP under this Part, and shall make the decisions where no change is to be recommended to the GSP. The Chairman of the TPSC shall report the results of the TPSC's review to the Deputy Special Trade Representative and the Special Trade Representative who may convene the Trade Policy

Review Group (TPRG) or the Trade Policy Committee (TPC) for further review of recommendations and other decisions as necessary.

(e) In considering whether to recommend to the President (1) that additional articles be designated as eligible for the GSP; (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended, or limited; or (3) that product coverage be otherwise modified, the GSP Subcommittee of the TPSC, the TPRG, or the TPC shall review the relevant information submitted in connection with or concerning a request under this Part, together with any other information which may be available relevant to the statutory prerequisites for Presidential action contained in Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465).

**§ 2007.3 Timetable for reviews.**

(a) Reviews of pending requests shall be conducted at least once each year, according to the following schedule unless otherwise specified by FEDERAL REGISTER notice: (1) June 1, announcement of review; (2) July 15, deadline for receiving petitions; (3) August 1, announcement of accepted petitions; (4) September 15, public hearings; (5) March 1, effective date of changes. If the date specified is on, or immediately follows, a weekend or holiday, the effective date will be on the second working day following such weekend or holiday date.

(b) Requests which indicate the existence of unusual circumstances warranting an immediate review may be reviewed separately. Requests for urgent consideration should contain a justification for the urgency.

**§ 2007.4 Publication regarding requests.**

Whenever a request is received that conforms to these regulations or that is accepted pursuant to Sec. 2007.2 a statement of the fact that the request has been received, the TSUS item number or numbers and description of the article or articles covered by the request, the name of the party submitting the request, and an invitation for all interested parties to submit views to the TPSC shall be published in the FEDERAL REGISTER.

Upon the completion of a review, and publication of any Presidential action modifying the GSP, a summary of the decisions made will be published in the FEDERAL REGISTER including:

(a) A list of requests upon which action has been taken,

(b) A list of requests that remain pending.

Whenever, following a review, there is to be no change in the status of an article with respect to the GSP, the party submitting a request with respect to such article, shall be individually notified.

**§ 2007.5 Written briefs and oral testimony.**

Sections 2003.2 and 2003.4 of this Part shall be applicable to the submission of any written briefs or requests to present oral testimony in connection with a review under this Part.

**§ 2007.6 Information open to public inspection.**

With the exception of information subject to § 2007.7, an interested person may, upon request, inspect at the Office of the Special Representative for Trade Negotiations:

(a) Any written request, brief, or similar submission of information made pursuant to this Part; and

(b) Any stenographic record of any public hearings which may be held pursuant to this Part.

**§ 2007.7 Information exempt from public inspection.**

(a) Information submitted in confidence shall be exempt from public inspection if it is determined that the disclosure of such information is not required by law.

(b) A party requesting an exemption from public inspection for information submitted in writing shall clearly mark each page "Submitted in Confidence" at the top, and shall submit a nonconfidential summary of the confidential information. Such person shall also provide a written explanation of why the material should be so protected.

(c) A request for exemption from public inspection of any particular information may be denied if it is determined that such information is not entitled to exemption under law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

**§ 2007.8 Other reviews of article eligibilities.**

(a) As soon after the beginning of each calendar year, as relevant trade data for the preceding year is available, modifications of the GSP in accordance with section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464) will be considered.

Dated: September 1, 1977.

WILLIAM B. KELLY,  
Chairman, Trade Policy  
Staff Committee.

[FR Doc.77-26166 Filed 9-8-77;8:45 am]

**OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS**

**TRADE POLICY STAFF COMMITTEE**

**Timetable for the Next Full Review of Requests for Modifications of the List of Articles Receiving Duty-Free Treatment Under the Generalized System of Preferences**

The next full review of products covered by the GSP was announced by FEDERAL REGISTER notice of Monday, May 16, 1977 (42 FR 24878) and will be conducted pursuant to the new regulations (15 CFR 2007) accompanying this notice. The May 16, 1977 FEDERAL REGISTER notice stated that in order to be considered in the next full review, requests for modifications of the list of articles receiving duty-free treatment under the GSP must be received no later than the close of business on Thursday, September 15, 1977.

In order to allow parties making requests for modifications of the GSP product coverage to conform to the new Part 2007, notice is hereby given that the September 15, 1977 deadline for receiving requests is extended according to the following timetable for the next full review of products covered by the GSP:

- Oct. 3, 1977---- Deadline for receiving requests for modifications to the list of articles receiving duty-free treatment under the GSP (extended from former deadline of Sept. 15, 1977).
- Oct. 7, 1977---- Announcement of petitions accepted for review.
- Nov. 7, 1977... Public hearings.

Dated: September 1, 1977.

WILLIAM B. KELLEY,  
Chairman, Trade Policy  
Staff Committee.

[FR Doc.77-26165 Filed 9-8-77;8:45 am]

Register  
Federal Register

FRIDAY, SEPTEMBER 9, 1977

PART VII



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DEPARTMENT OF  
LABOR

Occupational Safety and  
Health Administration



OCCUPATIONAL  
EXPOSURE TO 1,2  
DIBROMO-3-  
CHLOROPROPANE  
(DBCP)

Emergency Temporary Standard; Hearing

## Title 29—Labor

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

## PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

## Emergency Temporary Standard for Occupational Exposure to 1,2 Dibromo-3-chloropropane (DBCP); Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Emergency Temporary Standard; Notice of Hearing.

**SUMMARY:** This emergency temporary standard (ETS) is based on the determination that data conclusively establish that employee exposure to DBCP presents a hazard of sterility as well as cancer. Therefore, a grave danger currently exists for workers exposed to this sterility-inducing and cancer-causing substance. As a result, it is necessary to issue an emergency temporary standard to protect exposed employees. By this ETS the Occupational Safety and Health Administration (OSHA) limits employee exposure to DBCP to 10 parts DBCP per billion parts of air (10 ppb), as an 8 hour time-weighted average concentration, with a ceiling level of 50 ppb for any 15 minute period during the 8-hour day. In addition, the ETS requires the measurement of employee exposure, engineering controls, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard within six months. A public hearing on the permanent standard will commence on December 6, 1977.

**EFFECTIVE DATE:** September 9, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Flo Ryer, Directorate of Health Standards Programs, OSHA, Third Street and Constitution Avenue NW., Room N-3663, Washington, D.C. 20210 (202-523-7174).

**SUPPLEMENTARY INFORMATION:** The accompanying document is an emergency temporary standard issued pursuant to sections 6(e) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. The new standard, § 1910.1044 applies to all employments in all industries covered by the Act, including "general industry", construction and maritime, excluding only agriculture.

Pursuant to section 6(c)(3) of the Act, OSHA will shortly commence a rulemaking proceeding under section 6(b) of the Act. The emergency temporary standard will serve as a proposed final rule, along with other proposed requirements which will be published in the FEDERAL REGISTER pursuant to 29 CFR 1911.12. OSHA will publish an additional proposal in the very near future encompassing those areas of occupational safety and health

considered appropriate for the agency's permanent regulation of DBCP. This document sets a public hearing on the permanent DBCP standard to begin on December 6, 1977.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(b) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

## I. BACKGROUND

DBCP has been used as an agricultural nematocide since 1955. DBCP is a dense yellow or amber liquid with a pungent odor at high temperatures. It has a low vapor pressure (0.8 mm Hg at 20°C) and slight solubility in water (1,000 ppm).

DBCP is produced primarily by the bromination of allyl chloride at room temperature, usually a vigorous reaction which requires cooling. DBCP is produced in the United States by Dow Chemical Co. and Shell Chemical Co. The Federal Republic of Germany and Israel also export DBCP to this country. About 12 million pounds of DBCP were consumed in 1972.

DBCP is shipped to formulators who reprocess the chemical into products for consumer use. Formulators may vary the concentration of the chemical in an end product or change its physical state by simple blending and mixing operations. DBCP is formulated into emulsifiable concentrates, liquid concentrates, powder, granules and solid material. Formulating granular DBCP involves spraying liquid DBCP onto inert granules. The formulation of liquid and emulsified DBCP concentrates can involve the following operations: Transferring technical grade DBCP from railroad tank cars to storage tanks, and from the storage tanks to a mixing tank, adding an emulsifier or solvent to the mixing tank, transferring the blended material to a holding tank and then to drums; other transferring operations take place during the packaging of the DBCP materials. About 80 formulators have labels registered with EPA for the approximately 160 products which contain DBCP. The complete distribution chain generally includes the manufacture of technical grade DBCP, formulation of DBCP pesticides, distribution of DBCP pesticide and the agricultural consumption of DBCP pesticide.

In 1961, the authors of a research paper, Torkelson, et al., recommended that occupational exposure to DBCP be limited to less than 1 ppm in air. There is currently no OSHA standard for DBCP, a chemical substance to which approximately 2,000 to 3,000 employees in facilities manufacturing and formulating DBCP have recently been or may currently be exposed.

In July of this year, a worker at the Occidental Chemical Plant in Lathrop, Calif., noted and complained of the inability to father a child. During discussions with fellow workers, it was discovered that several other workers were

having a similar problem. These workers were tested and found to be sterile. (August 31, 1977 statement of Dr. Whorton.) As a result of this testing, on August 5, 1977, the Oil, Chemical and Atomic Workers (OCAW) union requested the National Institute for Occupational Safety and Health (NIOSH) to conduct a health hazard evaluation at the Occidental Chemical Co. Plant. This request was made after representatives of OCAW learned that a number of workers at this plant had abnormally low sperm counts.

On August 9 and 10, 1977, NIOSH conducted a walk-through inspection of the Lathrop plant and met with representatives from the company, the local union, and California OSHA. The NIOSH staff also met with Dr. Donald Whorton, University of California, Berkeley, who had consulted previously with the company and the union and who had conducted medical examinations of the affected employees. Medical examinations of a number of additional employees have subsequently been conducted by NIOSH staff in conjunction with Dr. Whorton.

On August 12, 1977, the Occupational Safety and Health Administration in a telegram alerted approximately 80 manufacturers and formulators to the potential hazard of worker exposure to DBCP. On August 23, 1977, a guideline document detailing suggested work practices was forwarded to these same affected companies. Although Shell and Dow have temporarily suspended production of DBCP and requested the return of outstanding stocks of the substance, its use in formulating pesticides may still be occurring. Therefore this ETS is necessary to limit occupational exposure.

On August 19, 1977, the Director, NIOSH, wrote to the major manufacturers of DBCP requesting information to fully evaluate the extent of the hazard posed by exposure to DBCP.

On August 23, 1977, the Oil Chemical and Atomic Workers International Union President, A. F. Grosprun, formally requested that the Secretary of Labor take immediate steps to prevent worker exposure to DBCP. Specifically, that worker exposure be limited to one part DBCP per billion parts of air, and that a broad testing program to locate incidents of cancer and sterility among workers be established.

## II. EFFECTS OF EXPOSURE TO DBCP

The possible health effects of exposure to DBCP are illustrated by the results of acute and chronic toxicity studies in several animal species and the recent shocking discovery of sterility in a large number of male employees exposed to DBCP in the manufacture and formulation of pesticides. These effects may include in addition to sterility, diminished renal function, degeneration and cirrhosis of the liver, and cancer.

## A. STERILITY

*Evidence in Animals.* In 1961, Torkelson, et al. conducted experiments in which four animal species (male and

female rats, guinea pigs, rabbits and monkeys) were exposed to DBCP by inhalation. The test animals were subjected to 50-66 exposures of 12 ppm DBCP over 70 to 92 days. A 40 to 50 percent mortality was observed in the rat study groups which, in most cases, was attributed to lung infections. Examination at autopsy showed damage to the lungs, kidneys, digestive system, and "severe atrophy and degeneration of the testes of all species." This effect was accompanied by a reduced sperm count, abnormal sperm cell development and degeneration of the seminiferous tubules. A 1970 subacute study by Faydysh et al. showed that a 70 mg/kg/day dose of DBCP, administered orally in oil solution for 45 days, produced a necrotic action on the testicles of white rats.

A more recent report in 1971 by Raktullaev disclosed that chronic (8 months) exposures to 5 mg/kg/day DBCP produced a distinct decrease in sperm motility for male rats and a decrease in overall female fertility.

Additional research on DBCP by Reznik and Sprinchan (1975) specifically showed gonadotoxic effects in male and female rats. In a series of both acute (single dose of 100 mg/kg) and chronic (10 mg/kg in multiple doses for 4-5) experiments, these investigators found that DBCP not only severely affected spermatogenesis, but had a profound effect on the estrous cycle of the female rats.

*Evidence in humans.* Concern for possible sterility effects resulting from exposure to DBCP first developed among employees of the Agricultural Chemical (Ag Chem) Division of Occidental Chemical Company in Lathrop, Calif. For several years, the lack of children being born to families of men working in the Ag Chem Plant was a topic of casual discussion among these employees. Within the last several months, there developed an increasing concern that the low birth rate among these families might be related to pesticide poisoning. Finally, at the suggestion of the employee union, the Oil, Chemical, and Atomic Workers (OCAW), seven employees from the Ag Chem Plant volunteered for sperm counts to be taken.

Early in July 1977, laboratory reports of abnormal sperm counts taken from these seven men were sent to Dr. Donald Whorton, a physician at the University of California at Berkeley, who specializes in internal medicine and occupational diseases.

On the 22nd of July, Dr. Whorton performed sperm counts on five of the seven men. Again their sperm counts showed either oligospermia (low sperm count) or aspermia (no sperm). Arrangements were made with management for Dr. Whorton to see the remaining employees who worked in the Ag Chem area or in the adjacent laboratory that did the quality control work. Twenty-six were production workers, 3 were supervisors, 4 were maintenance mechanics, 2 were clerical, and 6 were laboratory personnel. This made a total of 41 employees of which 3 were women.

The examination consisted of: (1) A complete medical history with emphasis on the reproductive tract as well as diseases and conditions that may cause sterility; (2) a work history; and (3) a thorough physical examination, including laboratory tests of a comprehensive nature.

The results of the physical exams were essentially normal, other than anticipated conditions based on medical history non-related to occupational exposure. The results of the blood analysis, kidney and renal functions, cholesterol, glucose, calcium and phosphorus determinations revealed no unexpected results.

As stated earlier, three of the 41 employees examined were women. Eleven of the 38 men had had previous vasectomies. The remaining 27 men had complete sperm analysis. A complete sperm analysis includes a sperm count (perms per cubic millimeter of seminal fluid), sperm motility (movement), and morphology (size and shape). Of these 27 men, 14 had sperm counts less than 40 million—considered abnormally low by Dr. Whorton's criterion. None of the 14 were completely aspermic, having sperm counts of zero. Two had counts in the range of 1 million, one had a count in the range of 10 to 20 million, and two had counts in the range of 20 to 30 million. Dr. Whorton described sperm count as a relatively standard examination performed in most clinical laboratories and by a large number of urologists, primarily in evaluating male infertility.

Samples of sperm from all workers, except 4, examined by Dr. Whorton, were analyzed immediately upon collection, and the remaining ones were done within 12 hours or less. Sperm samples can be used up to 24 hours after the time they have been collected.

In all the men the testes were of normal size, and the serum testosterone levels of workers who had normal sperm counts were essentially normal. There was a marked difference in the FSH (follicle-stimulating hormone) levels and the LH (luteinizing hormone) levels in the eleven employees most severely affected (sperm count of 1 million or less) as compared to the 13 who had sperm counts of more than 40 million.

Studies are continuing on ten of the 41 men. These men were selected for open bilateral testicular biopsy on the basis of clinical findings and in order to learn all that could be learned of what was happening histologically to these testes. Also through a contract with NIOSH the rest of the employees in the Occidental plant are to be examined on a volunteer basis for sperm counts, FSH, LH, and serum testosterone. Examining a larger population may more clearly indicate the value of these tests in determining the adverse health effects.

Under a NIOSH contract Dr. Whorton is engaged in a medical examination of some pesticide applicators and set-up men employed by Occidental Chemical to demonstrate the proper application and use of DBCP to farmers. At present, there is only limited data regarding these

men, but already Dr. Whorton has observed abnormal sperm counts in approximately five out of nine workers.

Evidence of effects similar to those observed by Dr. Whorton have been reported to OSHA by the Dow Chemical Co. and Shell Oil Co., the only two known U.S. producers of DBCP (both of these companies reported that they have recently suspended all operations involving manufacture and formulation of DBCP pesticides and have requested the return of all outstanding stocks).

In a telegram dated August 31, 1977, the Corporate Medical Director of Shell Oil Co. reported that among employees exposed to DBCP who had been examined to date, abnormally low sperm counts had been obtained based on a single specimen per employee. Seven of eleven employees from one plant had sperm counts of 40 million or less. Twenty out of twenty-seven employees in a second plant had resulting sperm counts less than 40 million. In the second plant, production of DBCP was discontinued in 1975. Shell estimates that employee exposures to DBCP have ranged from less than 100 ppb to 600 ppb for the past three years.

In a letter dated September 1, 1977, the Medical Director of Dow Chemical Co. reported that in their plant in Magnolia, Ark., DBCP production and formulation began in January 1976 and was discontinued in August 1977. To date 86 employees have been examined out of a total of approximately 150 who may have been exposed to DBCP. Among the 86 examined, aspermia has been found in 24 percent and 46 percent have oligospermia.

In summary, sterility has been consistently found in employees in several plants whose exposure to DBCP was in some cases quite brief and in most cases at levels which have generally been regarded as low. The possibility of other health effects cannot be dismissed as the examination of large numbers of exposed workers continues.

#### B. CARCINOGENICITY

The National Cancer Institute undertook in 1972 studies of the possible carcinogenicity of DBCP, as one of a group of halogenated compounds. As early as 14 weeks after the initiation of administration by stomach tube of daily doses of 24 mg/kg of DBCP dissolved in corn oil, 5 times per week, several female rats were found to have palpable mammary tumors. Female rats given daily doses of 12 mg/kg of DBCP had not developed mammary tumors. After the fourteenth week, the doses were increased to 30 and 15 mg/kg/day. These doses were continued up to a total duration of the experiment of 52 weeks. During this period, 7 males and 11 females of the 50 rats of each sex given each dose of DBCP used in the experiment died without tumors. Seventeen of the male rats and 33 of the females given the high dose developed squamous carcinomas of the forestomach and 12 of the females had adenocarcinomas of the breast. Five female rats given the low dose of DBCP developed mammary carcinomas and 4 males and

14 females developed gastric carcinomas. One male among the 20 rats of each sex used as vehicle controls developed a tumor that was not described more specifically. Groups of 50 male mice given 160 or 80 mg/kg/day of DBCP for 14 weeks, 200 or 100 mg/kg/day for the next 13 weeks, and 260 or 130 mg/kg/day for 25 weeks and numerically similar groups of female mice given 120 or 60 mg/kg/day for the first 14 weeks and thereafter given the same doses as the males developed 14 gastric carcinomas in males and 9 in females on the high dose, and 3 in each sex on the low dose of DBCP. No mammary carcinomas developed in the female mice and no tumors of any sort developed in the vehicle controls (20 of each sex or each species).

A report in abstract form (Powers et al., 1975) at a later stage of the same study (after 78 weeks) changed the results in a quantitative way only, the incidence of mammary adenocarcinoma in female rats increasing to 54 percent and that of squamous cell carcinoma of the stomach exceeding 60 percent in the rats and 90 percent in the mice.

A draft of the final report of the contractor (Hazleton Laboratories America, 1977) to the National Cancer Institute reveals that male B6C3F1 mice received 160 or 80 mg/kg/day of DBCP by gavage for 11 weeks, 200 or 100 mg/kg/day for 14 weeks and 260 or 130 mg/kg/day for 22 or 33 weeks, respectively. The time weighted average daily doses were 219 mg/kg for the high-dose group and 113 mg/kg for the low-dose group. The female mice of the same strain received 120 or 60 mg/kg/day during the first 11 weeks and thereafter received the same doses as the males. The time-weighted average doses for the females were 209 mg/kg and 109 mg/kg. Osborne-Mendel rats of the two sexes were given identical doses: 24 or 12 mg/kg for the first 9 weeks, 15 mg/kg for 60 weeks (males) or 64 weeks (females), followed by a 5-week observation period for the males, for the low-dose group, and 30 mg/kg for 55 weeks for the high dose group. For both male and female rats, the time-weighted average daily doses, 5 days/week, were 15 mg/kg for the low dose group and 29 mg/kg for the high dose one.

The preliminary estimates are that the growth of male mice decreased slightly after the first 8 weeks on the high dose and after 22 weeks on the low dose. The growth of the females may have decreased after 32 weeks on the high dose. Mortality among the male mice increased after 36 weeks on the high dose and after 38 weeks on the low dose; that among the females increased after 36 weeks on the high dose and after 43 weeks on the low dose. The incidences of gastric cancer in male mice were 93.5 percent on the low dose and 97.9 percent on the high dose. No other tumors were reported in the mice but toxic nephropathy was found in 23.8 percent and 93.8 percent of male mice on the low and high doses, respectively.

The similar preliminary estimates for rats are that the growth of the females decreased slightly after 9 weeks on either

the low or the high dose. Mortality among the male rats increased after 47 weeks on the high dose and after 60 weeks on the low dose; that among female rats increased after 28 weeks on the high dose and after 31 weeks on the low dose. The incidences of gastric cancer were 76 percent on the low dose and 59 percent on the high dose. In the females, adenocarcinoma of the breast appeared in 48 percent of the rats on the low dose and 62 percent of those on the high dose. In both sexes of this species, there were appreciable occurrences of other malignant and benign tumors (50 percent and 18 percent in males on the low and high doses, respectively, and 14 percent and 20 percent in the females on the low and high doses). The most common of these tumors were hemangiomas and hemangiosarcomas.

Among the control rats, mammary carcinoma occurred in 10% of the female colony controls and in none of the vehicle controls. Hemangiomas or hemangiosarcomas occurred in about 5.3 percent of male colony control rats and 15 percent of the females; they appeared in 5.0 percent of female vehicle control rats and in none of the male ones. Cancer of the forestomach was found in no control rats or mice.

Ward and Habermann (1974), reported that the squamous cell carcinomas of the forestomach induced in mice and rats by gavage of DBCP directly into the stomach invaded the wall of the stomach and metastasized to peritoneal surfaces, especially in rats. The metastatic tumors frequently were associated with peritonitis and abscesses.

An increased risk for cancer has not been seen with inhalation studies in rats, however OSHA believes these results must be viewed as inconclusive due to the relatively brief duration of the studies.

There are indications from *in vitro* experiments that DBCP may cause mutagenic effects. Rosenkranz (1975) examined the effects of DBCP on two strains of *E. coli* and on two of the tester strains of *Salmonella typhimurium*: TA 1530 and TA 1538. DBCP was mutagenic for the first of these tester strains but not for the second, indicating that it induces mutations of the base-substitution but not of the frame-shift type. While these results are not conclusive in themselves they are not inconsistent with the animal carcinogenicity data. In general, a high correlation has been found between the results of *in vitro* mutagenicity tests and long term animal carcinogenicity studies.

In view of the demonstration of carcinogenicity in two mammalian species, both sexes, at multiple dose levels, in well-designed studies, OSHA believes it is necessary, as a prudent policy matter, to treat DBCP as posing a potential carcinogenic risk to workers.

#### C. OTHER TOXIC EFFECTS

While sterility and a potential carcinogenic risk appear to be the most important health effects associated with exposure to DBCP, animal studies and human experience have revealed a variety of other acute and chronic toxic effects

of skin contact (percutaneous absorption), inhalation, and ingestion. Exposure to DBCP results in irritation of the eyes and respiratory passages. The central nervous system is depressed causing apathy, sluggishness and ataxia.

The skin is slightly irritated upon short exposure. Repeated exposure causes necrosis of the dermis. Toxic amounts can be absorbed through the skin. Excessive exposure to the vapors results in damage to the liver, kidneys and various tissues including dermic, bronchioles, renal collecting tubules, lens and cornea and alimentary canal. Injury caused by DBCP is particularly slow in healing.

These aspects of DBCP toxicity further indicate the necessity of limiting employee exposure by any route of entry.

#### III. REASONS FOR ISSUANCE OF AN EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to DBCP poses a grave danger to humans. Specifically, human exposure to DBCP can cause oligospermia and aspermia—commonly known as sterility. Moreover, accumulated animal studies of good design have established that DBCP is clearly a carcinogen in animals, and must therefore be viewed as posing a risk of cancer to humans.

The data on sterility in workers involved in the manufacture and formulation of DBCP have only recently been collected. In fact, investigations into this ominous loss of reproductive capacity in these men are continuing. However, current data conclusively and reliably show that the deleterious effect on the testes is significant even at extremely low levels of exposure to DBCP. The preliminary investigations, which principally involve testing for sperm counts, have been interpreted by OSHA to conclusively establish that DBCP causes sterility. This evidence of a new hazard to employees is further substantiated by earlier evidence that DBCP causes sterility in animals, even though the dosages were higher. The Assistant Secretary, in light of this new and convincing evidence, concludes that occupational exposure to DBCP causes sterility.

In addition, recent animal studies have demonstrated the carcinogenicity of DBCP. Olsen, et al. in 1973, Powers, et al. in 1975, and Weisburger, et al. in 1977, have produced squamous cell carcinomas of the stomach in a high percentage of the exposed population of animals. In light of this recent evidence and the overwhelming scientific support for the view that substances shown to cause cancer in animals must be treated as posing a carcinogenic risk to man, the Assistant Secretary must treat DBCP as posing a cancer risk in humans, especially since it has been shown to have detrimental biological effect in man. The best available scientific evidence indicates that no safe level for exposure to a carcinogen, including DBCP, can be established at present. OSHA has considered this question of a safe level in previous rule-making proceedings (see preambles to carcinogen standards (39 FR 3758), vinyl chloride standard (39 FR 35892), and

coke oven emissions standard (41 FR 46742)) and has concluded that, as a prudent policy matter, in the absence of a demonstrated safe level or threshold for a particular carcinogen, it must be assumed that none exists. This view is consistent with a considerable body of scientific opinion holding that when dealing with a carcinogen, no safe level can be determined for any given population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) states:

No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1.)

And NIOSH has taken the position that in regulating cancer-causing substances " \* \* \* it is not possible at present to determine a safe exposure level for carcinogens." (Rev. Arsenic Crit. Doc. 1975.)

In conclusion, the Assistant Secretary determines that exposure of employees to a known sterility-inducing and cancer-causing substance in the workplace environment is a "grave danger" within the meaning of section 6(c)(1)(A) of the Act.

That cancer and substances which cause cancer pose a grave danger within the meaning of section 6(c)(1)(A) needs little supportive discussion. The nature of the cancer hazard differs from many other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and even fatal consequences. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period of 10-30 years. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

Substances which cause involuntary sterility must also be viewed as posing a grave danger within the meaning of section 6(c)(1)(A) of the Act. Sterility in man, while perhaps not physically painful, nor equivalent to the loss of life itself, is a serious impairment of a vital and necessary bodily function—the ability to reproduce. Furthermore, sterility can have devastating psychological effects.

The need for immediate regulation to limit exposure to DBCP is apparent from the above discussion. Both as a carcinogen and as a quick-acting sterilant (some employees who became sterile had been exposed for only a few months), DBCP can pose its life-threatening danger in a very brief period of exposure. Without this emergency temporary standard, employees would continue to be exposed to this threat during the period of time necessary to complete the

normal rulemaking process. Issuance of this ETS is therefore necessary to protect employees from this grave danger.

#### IV. SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from DBCP exposure until a permanent standard can be promulgated in accordance with sections 6(b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for DBCP and the necessity for including these provisions in the ETS.

1. Paragraph (a).—*Scope and application.* This standard applies to all employment where DBCP is present with the limited exception provided below. The principal activities covered by this ETS include the manufacture of DBCP, the formulation of pesticides containing DBCP, and related activities of packaging, repackaging, storage, transportation, and disposal of DBCP.

This standard does not apply to exposures which result solely from the application and use of DBCP as a pesticide. The clinical evidence of sterility has been observed principally among employees engaged in manufacture of DBCP and formulation of pesticides containing DBCP. However, among the employees of Oxidental Chemical Co., examined by Dr. Whorton were nine demonstrator applicators and "set-up" men. Five of the nine were found to have abnormally low sperm counts. Few examinations have been performed to date among the workers whose only exposure to DBCP has resulted from its typical use as a pesticide in agricultural operations. Nevertheless, OSHA believes that the human health effects actually observed among workers exposed to relatively low levels of DBCP combined with the related findings of reproductive effects and carcinogenicity in several animal studies strongly indicate that similar hazards are to be expected among those workers exposed to DBCP in the agricultural pesticide applications. At the same time, OSHA recognizes the important role that EPA regulation of pesticides has for the protection of those workers engaged in the application and use of DBCP. In issuing this ETS, OSHA is acting to assure immediate protection of workers whose exposure to DBCP is not presently covered by a specific regulation of either agency, i.e. those engaged in manufacturing and formulation operations. EPA has indicated that it intends to respond immediately to appropriately limit the use of DBCP-containing pesticides based on the recent new evidence. In view of the possibility that immediate EPA action in this case could remove the need for further action by OSHA to protect these employees, this ETS does not now apply to the application of DBCP pesticides or to subsequent exposure of field employees. OSHA will consider including these operations and employees in

the permanent standard for DBCP and possibly amending this ETS to cover these operations and employees as information concerning adverse effects on these employees and possible parallel EPA action develops.

2. Paragraph (c).—*Permissible exposure limits.* The ETS establishes a permissible airborne exposure limit and a prohibition on eye or skin contact with DBCP. The eight-hour time-weighted average is set at 10 parts DBCP per billion parts of air (10 ppb); or 0.097 milligrams DBCP per cubic meter of air (0.097 mg/cu. m.) where exposure is to dusts or mists, or dusts and/or mists combined with vapor. A ceiling permissible exposure limit is established at 50 ppb (0.48 mg/cu. m.), as averaged over any 15 minutes.

The reported exposure of employees at concentrations significantly less than 1 ppm at several manufacturing and formulating plants and the resulting sterility effect in a substantial proportion of the exposed employees even at that level clearly indicates that a substantial reduction must be accomplished to mitigate the risk. There is, unfortunately, no accurate information on the exact level necessary to eliminate this risk. Here, we cannot determine the exact mechanism and cannot determine whether there is a safe level or threshold level below which reproductive effects would not occur.

In addition, while DBCP has not yet been demonstrated to be a carcinogen in humans, the clear evidence from several animal tests in mammalian species indicates that for the protection of the worker, we must regard DBCP as posing a potential carcinogen risk. OSHA policy, which is based on the best available scientific evidence and which is consistent with the policies and recommendations of nearly all public bodies which have addressed the problem of exposure to cancer-causing substances, has been and is that a substance which causes cancer in animals must be regulated as a human carcinogen and in the absence of a demonstrated "safe" or "no effect" level for human exposure to a carcinogen, it must be assumed, as a prudent policy matter, that no safe level exists.

Accordingly, the setting of an exposure level for DBCP cannot be based on a determination of a "safe" level which will eliminate the cancer and sterility hazard, but rather on a determination of a level which will immediately minimize the hazard to the greatest extent possible, within the confines of feasibility. Consequently it is determined that a prudent assessment of both the health effects, and the measurement technology, and the means for reducing employee exposure directs the establishment of an eight-hour time weighted average permissible exposure limit of 10 ppb.

In addition to limiting the 8-hour time weighted average exposures to 10 ppb, the emergency standard requires that no employee be exposed to DBCP in excess of 50 ppb averaged over any 15-minute period. An employee may be exposed to

varying concentrations of DBCP during the course of the work day with some periods of exposure above 10 ppb and corresponding periods below 10 ppb. OSHA believes that the uncertainty regarding the concentrations and duration of exposure that may cause sterility or increase carcinogenic risk requires that the magnitude of brief excursions must be limited. Consequently, a ceiling limit of 50 ppb averaged over any 15 minute period is established.

3. Paragraph (d).—*Notification of use.* The ETS requires employers to notify the OSHA Area Director of the location of workplaces where DBCP is present, and to describe the conditions of use and exposure and the protective measures in effect. This will permit OSHA to assemble a better profile of the industry, its capabilities, and the affected workforce and to more effectively schedule and conduct its enforcement activities.

4. Paragraph (e).—*Exposure monitoring.* The exposure monitoring provisions intend that the employer determine the exposure for each employee exposed to DBCP. This does not require separate measurements for each employee. If a number of employees perform essentially the same job under the same conditions, it may be sufficient to monitor a significant fraction of such employees and obtain results that are representative of the remaining employees.

Where exposures are determined to be above the permissible exposure limit, the employer must monitor monthly. Otherwise the employer may monitor quarterly. "Exposure" in this connection means the airborne concentrations in the worker's breathing zone, with no adjustment for the protection of any respirator the employee may be wearing.

The employer is also required to monitor again if any changes in production, processes, control measures or personnel make it likely that new or additional exposures to DBCP will result.

5. Paragraph (f).—*Methods of compliance.* The standard is flexible and permits a variety of responses to achieve the required reduction in employee exposure. The employer may use feasible engineering controls, work practices, personal protective equipment and respirators as necessary to achieve the required degree of protection. This is substantively different from the requirement in existing OSHA permanent standards. In these there is a hierarchy, requiring maximal use of engineering controls, and work practices, and allowing respirators and personal protection only where all other feasible means fail to control exposure.

Some fundamental and easily implemented work practices are prescribed specifically in the standard; limiting access to work areas to only necessary employees; prohibiting smoking and eating in work areas, and housekeeping and maintenance to reduce amounts of material that may be present in the workplace.

The ETS also requires employers to prepare a plan to reduce employee ex-

posure to the lowest feasible level solely by engineering and work practice methods, within 90 days of the issuance of the ETS. While the ETS will be in effect for only a brief time, and a full public proceeding must precede the issuance of a permanent standard, OSHA believes it is necessary to begin planning now for employee protection in the long term. Because of the general irreversibility of cancer as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the gravity of the health risk.

6. Paragraph (g).—*Respiratory protection.* The ETS provides that, whenever the permissible exposure limits are exceeded, the employer must provide and assure that the employees use respirators. The ETS contains a respirator selection table (table 1) so the employer will provide the type of respirator which affords the proper degree of protection based on the airborne concentrations of DBCP to which the employee may be exposed. The respirator table for DBCP is derived from the Standards Completion Project respirator decision logic.

Because of the lead time in obtaining atmosphere supplying respirators, the ETS permits the use of air-purifying respirators (pesticide type, using a chemical cartridge with particulate filter), in spite of the fact that DBCP has no useful warning properties at concentrations where the protection factor of negative-mode respirators may be used.

Because DBCP has no warning properties at concentrations where the use of air-purifying respirators is permitted, and because these respirators have no end-of-service life, the ETS requires that the cartridges or canister be replaced at the end of each work shift in which they are first used. Special care must be taken in their use to assure proper fitting.

The ETS requires that the employee be properly trained to wear the respirator, to know why the respirator is needed and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform with 29 CFR 1910.134. This section contains the basic requirements for use, cleaning, and maintenance of respirators.

To prevent skin irritation and to minimize the discomfort of respirator use, the ETS requires that employees must be allowed to periodically wash their faces and respirator facepieces in order to remove any accumulation of the DBCP or to reduce the chance of irritation from the wearing of the facepiece itself, such as a heat rash.

7. Paragraph (h).—*Protective clothing and equipment.* The ETS requires the employer to provide and assure that employees, who are subject to skin or any eye contact, use impermeable protective clothing or equipment such as goggles in order to minimize these hazards.

The ETS also requires that the employer clean, launder, or dispose of the required protective clothing to eliminate any potential exposure that might result were the clothing to be laundered by the employee, at home or in a commercial laundry.

The ETS also requires that protective clothing be provided in a clean and dry condition daily. Since skin contact with DBCP creates a potential for skin absorption, OSHA believes that the regular cleaning of contaminated work clothing plays an important role in the prevention of this hazard. The ETS also requires that protective clothing and equipment be maintained and replaced as needed in order to ensure effectiveness.

The ETS provides that the employer assure that all protective clothing is removed at the end of each work shift, and that the clothing that is to be laundered, cleaned, or disposed of be placed in a closable container. The purpose in requiring such a container is to prevent the contaminants on the clothing from being released in the ambient air or from being contacted by an individual handling the container.

Finally, the ETS requires employers to inform those who handle the contaminated protective clothing of the potentially harmful effects of exposure to DBCP. This provision is designed to make clear the need to use proper care in handling of the contaminated protective clothing.

8. Paragraph (i).—*Housekeeping.* Removal and prevention of accumulations of liquid deposits of DBCP or dusts containing DBCP, on all surfaces are important aspects in minimizing employee exposure. To assure that DBCP is not reintroduced into the workplace air, the standard prohibits dry sweeping or the use of compressed air for cleaning floors and other surfaces where DBCP is found. The standard also requires that when DBCP is present in liquid form, or as a resultant vapor, that all containers or vessels be enclosed to the maximum extent feasible and tightly covered when not in use.

For disposal of waste scrap or equipment or debris containing DBCP, the standard requires that such material be collected and disposed of in sealed or closed containers which prevent the dispersion of DBCP outside the containers. State environmental protection agencies designate appropriate landfills for the disposal of such waste.

9. Paragraph (j).—*Hygiene facilities and practices.* § 1910.141 prescribes hygiene facilities and practices required in all workplaces for ordinary sanitary protection. In addition, it includes provisions applicable where toxic substances are handled, for appropriate facilities and practices. While § 1910.141 is a separately applicable provision in OSHA regulations, attention is directed to it by specifically referring to it in this ETS.

10. Paragraph (k).—*Medical surveillance.* The standard requires that each employer institute a medical surveillance program for all employees who are, or

will be exposed to DBCP. OSHA believes that a medical surveillance program is necessary in dealing with the problem of employee exposure to DBCP; hence, pursuant to the Act, this standard has prescribed it. The authority, indeed the requirement, to include medical surveillance in an OSHA standard is found in 6(b) (7) of the Act:

\* \* \* where appropriate, any such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such employment related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The ETS requires that the medical surveillance program provide each covered employee with an opportunity for medical examination.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g. taking of a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandated, by reason of section 6(b) (7) of the Act, that medical examinations and procedures required by OSHA standards be provided at no cost to the employee.

The ETS provides that a work history, medical history, and medical examination be performed. The content of the examination is consistent with that which has been employed by Dr. Whorton and physicians at Dow and Shell in the clinical evaluation of employees exposed to DBCP and which OSHA therefore believes is appropriate for this ETS. The purpose of this requirement is to make an initial medical assessment of each employee and to establish a baseline health condition against which future changes in an employee's health may be compared.

The standard requires that the employer provide the physician with certain information. This includes: (1) A copy of the regulation; (2) a description of the affected employee's duties as they relate to the employee's exposure; (3) the results of the employee's exposure monitoring; (4) if any personal protective equipment is used or is to be used; and (5) information from previous medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to his assigned duties and fitness

to wear personal protective equipment when required.

The employer is required to obtain a written opinion from the examining physician containing: (1) The results of the medical tests; (2) the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to DBCP; (3) any recommended limitations upon the employee's exposure to DBCP and upon the use of protective clothing and equipment such as respirators; and (4) a statement that the employee has been informed by the physician in writing of the test results, and of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure. A copy of the opinion must be provided to the affected employee by the employer.

The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose in requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to occupational exposures.

11. Paragraph (1).—*Employee information and training.* The ETS requires the employer to provide a training program for employees exposed to DBCP. OSHA believes that an information and training program is essential for the protection of employees, because an employee can do much to protect himself if informed of the nature of the hazards in the workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his work environment. For this reason, the employer is required to inform each employee exposed to the DBCP of the nature of the related health problems; the necessity for exposure control and the medical and industrial hygiene monitoring programs.

The content of the training program is intended to apprise the employees of: (1) The hazards to which they are exposed; (2) the necessary steps to protect themselves, including avoiding exposures, using respiratory protection and taking medical examinations; (3) their role in reducing exposures; and (4) the contents of the standard. Section 6(b) (7) of the Act makes it clear that these are appropriate goals of an employee training program, and the standard, therefore, includes them.

The employer is also required to provide, upon request, all materials relating to the training program to the Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standard.

12. Paragraph (m).—*Signs and labels.* OSHA believes that it is important, and indeed section 6(b) (7) of the Act provides, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as whether to work at a job under the particular working conditions. Furthermore, OSHA believes that since control of safety and health problems involves the cooperation of employees, success of a program is highly dependent upon the employee's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to DBCP, OSHA does not believe that periodic training alone will adequately apprise employees of the health hazards of DBCP. However, coupled with the training requirements, OSHA believes that the requirement to post signs and labels will adequately do so.

The standard requires that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign.

Due to the hazardous nature of exposure to DBCP, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the standard includes a requirement that caution labels be affixed to all containers containing DBCP and of the products containing it, not only because of the hazardous nature of such exposure, but because of the related necessity for both the employer and employee to know whether the product contains any DBCP. The labeling provisions for the standard also require the employer to assure that caution labels are affixed to any product containing the DBCP when such product leaves the employer's workplace. This requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement is that the manufacturer or supplier is the employer creating the hazard and is in the best position to know whether the product does contain DBCP and therefore to warn other employers and their employees. However, where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this paragraph need not be affixed.

13. Paragraph (n).—*Recordkeeping.* Section 8(c) (3) of the Act provides for the promulgation of regulations requiring employers to maintain accurate records of employee exposures to potentially toxic or harmful physical agents which are required to be monitored or measured.

The standard provides that records must be kept to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include: (a) The names, social security numbers; and job classification of the employees monitored; (b) the dates, number, duration, and results of each of the samples taken, including a description of the representative sampling procedure used to determine employee exposure where applicable; (c) the type of respiratory protective devices worn by the employee, if any; and (d) a description of the sampling and analytical methods used, and evidence of their accuracy.

The ETS also requires that the employer keep an accurate medical record for each employee who is subject to medical surveillance. Section 8(c) of the Act authorizes the promulgation of regulations requiring any employer to keep such records regarding the employer's activities relating to the Act as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are both necessary and appropriate to both the enforcement of the standards and the development of information regarding the causes and prevention of illness.

As explained above, it is necessary to relate employees' medical conditions with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an individual employee's health. For all of these reasons, medical records have been required in the ETS.

The ETS requires that employees or their designated representatives be provided access to examine and copy records of required monitoring. The purpose of this provision is to assure current employees that their exposure is being properly monitored and that they are working in a safe and healthful environment. Section 8(c)(3) of the Act explicitly provides "employees or their representatives with an opportunity to observe \* \* \* monitoring or measuring \* \* \* and to have access to the records thereof."

The ETS requires that employee medical records be made available upon request for examination and copying to the affected employee or former employee or to a physician designated by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records useful in the diagnosis of illness.

14. Paragraph (o).—*Observation of monitoring.* Section 8(c)(3) of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the ETS contains provisions for such observation of DBCP

monitoring. To assure that the right to observe is meaningful, observers are entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure and record the results obtained.

The observer, whether an employee or designated representative, must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

15. Paragraph (p).—*Effective date.* The ETS becomes effective upon publication. However, certain paragraphs do contain briefly delayed effective dates.

The Assistant Secretary determines that all requirements under the new § 1910.1044 are feasible. Since the number of affected employers and employees is relatively small and since the required personal protective equipment, respirators, and monitoring equipment is standard, all necessary equipment is readily available in sufficient quantities. Where additional time for compliance is needed under certain provisions of the standard, such time has been explicitly granted. Examples of this are the medical surveillance and the training sections. Furthermore, many of the requirements of the new standard are already required by other OSHA standards, such as the eye and face protection under § 1910.133, respiratory protection under § 1910.134, and sanitation under § 1910.141. Finally, any feasibility problems concerning the immediate effective date are mitigated by: (1) The fact that, for years, EPA has required the use of labels warning of the hazardous nature of DBCP; (2) the fact that emergency information was sent by OSHA to all producers and formulators of DBCP warning of its hazardous properties; and (3) the fact that the two domestic producers have suspended production and have requested the return of all outstanding inventories of DBCP. Accordingly, employers for a substantial period of time, have been apprised of the hazardous nature of DBCP and of the need to provide protection, including the need for respirators and other protective equipment. Moreover, the number of employees exposed to DBCP should decrease as a result of the suspended productions.

16. Paragraph (q).—*Appendices.* The ETS includes three appendices: Appendix A titled "Substance Safety Data Sheet," Appendix B titled "Substance Technical Guidelines," and Appendix C titled "Medical Surveillance Guidelines." It should be noted that appendices are for informational purposes only. None of the statements contained therein should be construed as imposing a mandatory requirement not in the ETS, negating any requirement which is imposed by the standard.

The information in Appendix A is specifically written for the employee. Appendix B contains additional scientific and technical information to aid the employer in complying with requirements of the standard. Appendix C gives the

employer a means of providing the examining physician with an explanation of the potential health effects of exposure to DBCP and provides information needed by the physician to evaluate the results of the medical examination. Appendix C also lists other types of examinations, not required by the individual standard, which may help the physician in making an accurate determination of whether an employee should be exposed or should continue to be exposed to DBCP.

#### 17. REFERENCES

The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the Emergency Temporary Standard is based. A complete set of the references is available for examination and copying at the OSHA Technical Data Center, Docket Office, Room S6212, U.S. Department of Labor, Second Street and Constitution Avenue NW., Washington, D.C. between 8:30 a.m. and 4:30 p.m. Monday through Friday, legal holidays excepted.

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6. Torkelson, T. R., S. E. Sadek, V. K. Rowe, J. K. Kodama, H. H. Anderson, G. S. Loquvam, and C. H. Hine: Toxicologic investigations of 1,2-Dibromo-3-chloropropane. *Toxicology and Applied Pharmacology*, 3:545-559, 1961.
7. Weisburger, E. K.: Carcinogenicity studies on halogenated hydrocarbons. *Environmental Health Perspectives*, In press.
8. Whorton, Donald, M.D. OSHA interview with Dr. Whorton on August 31, 1977, concerning the sterility of workers exposed to 1,2-Dibromo-3-chloropropane at Occidental Chemical Co.'s Lathrop, Calif., plant.
9. Telegram, Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C., to Dr. V. K. Rowe, Dow Chemical U.S.A., 1803 Building, Midland, Mich., requesting information on employee exposure to 1,2-Dibromo-3-chloropropane and Ethylene dibromide; dated August 30, 1977.
10. Letter from Dow Chemical U.S.A., Dr. Benjamin B. Holder responding for Dr. Rowe to Dr. Eula Bingham, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, dated September 1, 1977.
11. Telegram, Dr. Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C., to Dr. R. E. Joyner, Corporate Medical Director, Shell Oil Co., P.O. Box 2463, Houston, Tex. 77001, requesting

information on employee exposure to 1,2-Dibromo-3-chloropropane, and Ethylene dibromide; dated August 30, 1977.

12. Telegram from Shell Oil Co., Dr. R. E. Joyner, M.D., Corporate Medical Director to Dr. Eula Bingham, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, dated August 31, 1977.

13. Telegram, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Field Coordination, to all producers and users of 1,2-Dibromo-3-chloropropane, dated August 12, 1977.

14. Letter, Occupational Health Guideline for 1,2-Dibromo-3-chloropropane (DBCP), U.S. Department of Labor, Occupational Safety and Health Administration, sent to all producers and users of DBCP, dated August 25, 1977.

15. Joint NIOSH-OSHA Standards Completion Program, Respirator Decision Logie, August 2, 1976, Occupational Safety and Health Administration, Washington, D.C. 20210.

16. Draft working document for 29 CFR Part 1990. Identification, classification, and regulation of certain toxic substances. Identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk, Occupational Safety and Health Administration, Directorate of Health Standards, Washington, D.C. 20210 (January 1977).

#### V. ENVIRONMENTAL AND ECONOMIC IMPACTS

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued thereunder (29 CFR Part 1999) require that Federal agencies assess their proposed major actions to determine whether a significant impact on the quality of the human environment may result, and if necessary to prepare an environmental impact statement. An environmental impact statement on the regulation of occupational exposure to DBCP will be prepared and made available as required during the rulemaking proceedings under section 6(b) of the Act. Because of the emergency nature of this standard, no environmental impact statement can be prepared or is required for the emergency temporary standard.

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974) Executive Order 11949 (42 FR 1017, January 5, 1977), OMB Circular No. A-107 (January 28, 1975), and Secretary's Order No. 15-75 (40 FR 54484, November 24, 1975), and administrative instructions thereto (U.S. Department of Labor Temporary Directive No. 1, November 17, 1975), OSHA has assessed the potential economic impact of this proposal. Based on the economic identification criteria specified in section 5(c) of Secretary's Order No. 15-75, OSHA has concluded that the subject matter of this proposal is not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement, and so certifies pursuant to section 4(a) of the Secretary's Order.

Issues concerning cost and economic impact, however, will be appropriate issues for consideration at the rulemaking proceeding.

#### VI. PUBLIC PARTICIPATION—NOTICE OF HEARING

Pursuant to section 6(c) (3) of the Act, this ETS as published also serves as a proposal for a permanent rule. It is OSHA's intention to develop and publish a more comprehensive proposal in the very near future. This proposal will contain additional provisions and some modifications of this emergency standard. Since the comprehensive proposal will be based on the emergency standard and since the emergency nature of the proceeding and requirements of section 6(c) will necessitate expedited treatment throughout the development of the final standard on DBCP, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views, and arguments with respect to this ETS and the supplementary proposal to be published shortly. These comments must be postmarked on or before October 10, 1977, and submitted in quadruplicate to the Docket Officer, Docket No. H-061, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of this proceeding.

Pursuant to section 6(b) (3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on December 6, 1977, in the New Department of Labor Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

#### NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate a notice of intention to appear, postmarked on or before November 4, 1977, addressed to Mr. Stephen Kaffee, OSHA Division of Consumer Affairs, Docket No. H-061, Room N-3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210; telephone 202-523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202-523-7895, must contain the following information:

- (1) The name, address, and telephone number of each person to appear;
- (2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

#### FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by November 21, 1977, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

#### CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on December 6, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

#### AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of

Labor's Order No. 876 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations by adding a new § 1910.1044 as set forth below. This amendment is effective on September 9, 1977.

Signed at Washington, this third day of September 1977.

EULA BINGHAM,  
Assistant Secretary of Labor.

§ 1910.1044 1,2 - dibromo - 3 - chloro - propane.

(a) *Scope and application.* This section applies to all occupational exposures to 1,2-dibromo-3-chloropropane (DBCP), Chemical Abstracts Service Registry Number 96-12-8, except that this section does not apply to exposure to DBCP which results solely from the application and use of DBCP as a pesticide.

(b) *Definitions.* "Authorized person" means any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

"DBCP" means 1,2-dibromo-3-chloropropane.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

(c) *Permissible exposure limits—(1) Inhalation.*—(i) *Time-weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration in excess of 10 parts DBCP per billion part of air (ppb) as an 8-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration in excess of 50 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(d) *Notification of use.* Within ten (10) days of the effective date of this section or within ten (10) days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the nearest OSHA Area Office for each such workplace:

(1) The address and location of each workplace in which DBCP is present;

(2) A brief description of each process or operation which may result in employee exposure to DBCP;

(3) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(e) *Exposure monitoring—(1) General.* Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an 8-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(2) *Initial.* Each employer who has a place of employment in which DBCP is present shall monitor, within thirty (30) days of the effective date of this section, each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(4) *Additional.* Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to DBCP, additional monitoring which complies with this paragraph (e) shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(f) *Methods of compliance.* The employer shall control employee expo-

sure to airborne concentrations of DBCP to within the permissible exposure limit, and shall protect against employee exposure to eye or skin contact with DBCP by engineering controls, work practices and personal protective equipment.

(1) *Engineering controls.* The employer shall develop and implement, as soon as possible, feasible engineering controls to reduce the airborne concentrations of DBCP to within the permissible exposure limits.

(2) *Work practices.* The employer shall examine each work area in which DBCP is present and shall institute, as soon as possible, work practices to reduce employee exposure to DBCP. The work practices shall be described in writing and shall include, among other things, the following mandatory work practices:

(i) Limiting access to work areas where DBCP is present to authorized personnel only;

(ii) Prohibiting smoking and the consumption of food and beverages in work areas where DBCP is present; and

(iii) Establishing good maintenance and housekeeping practices including the prompt cleanup of spills, repair of leaks, and the practices required in paragraph (i) of this section.

(3) *Respiratory protection.* Where engineering and work practice controls are not sufficient to reduce employee exposures to airborne concentrations of DBCP to within the permissible exposure limits, the employer shall provide at no cost to the employee, and assure that employees wear, respirators in accordance with paragraph (g) of this section.

(4) *Engineering and work practice control plan.* (i) Within ninety (90) days of the effective date of this section, the employer shall develop a written plan describing proposed means to reduce employee exposures to DBCP to the lowest feasible level solely by means of engineering and work practice controls.

(ii) Written plans required under this paragraph (f)(4) shall be submitted upon request to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Secretary, the Director, and any affected employee or designated representative of employees.

(g) *Respirators.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to within the permissible exposure limits, and in emergencies.

(2) *Respirator selection.* (i) Where respirators are used to reduce employee exposures to within the permissible exposure limit and in emergencies, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I below and shall assure that the employee wears the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE 1—RESPIRATORY PROTECTION FOR DBCP

RESPIRATORY PROTECTION	
Concentration not greater than:	
100 ppb:	Any chemical cartridge respirator with pesticide cartridge(s). Any supplied-air respirator. Any self-contained cartridge breathing apparatus.
500 ppb:	A chemical cartridge respirator with full facepiece and pesticide cartridge(s). A gas mask with full facepiece and pesticide canister. Any supplied-air respirator with full facepiece, helmet or hood. Any self-contained breathing apparatus with full facepiece.
5,000 ppb:	A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
20,000 ppb:	A Type C supplied-air respirator with full facepiece operated in pressure-demand or other positive pressure mode, or with full facepiece, hood or helmet operated in continuous flow mode.
Greater than 20,000 ppb or entry and escape from unknown concentrations:	
A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand or other positive pressure or continuous flow mode and an auxiliary self-contained breathing apparatus operated in pressure-demand or positive pressure mode.	
A self-contained breathing apparatus with full facepiece operated in pressure-demand or other positive pressure mode.	
Firefighting:	
A self-contained breathing apparatus with full facepiece operated in pressure-demand or other positive pressure mode.	
(3) <i>Respirator program.</i> (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134(b), (d), (e), and (f).	
(ii) Where air-purifying respirators (chemical cartridge or gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or the beginning of each shift, whichever occurs first.	
(iii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.	
(h) <i>Protective clothing and equipment.—(1) Provision and use.</i> Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with §§ 1910.132 and 1910.133 to protect the area of the body which may come in contact with DBCP.	
(2) <i>Cleaning and replacement.</i> (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. In addition, the employer shall provide clean pro-	

ective clothing and equipment at least daily to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a workshift.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (m)(3) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(1) *Housekeeping.—(1) Surfaces.* (i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(a) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(b) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (m)(3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(3) *Waste disposal.* DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(j) *Hygiene facilities and practices.* Hygiene facilities shall be provided and practices implemented in accordance with the requirements of § 1910.141.

(k) *Medical surveillance.—(1) General.* The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in ac-

cordance with this paragraph. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Frequency and content.* Within 30 days of the effective date of this section or time of initial assignment, and whenever exposure to DBCP, the employer shall provide a medical examination including at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(a) Sperm count;

(b) Complete urinalysis (U/A);

(c) Complete blood count; and

(d) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made:

(a) Serum multiphasic analysis (SMA 12);

(b) Serum testosterone;

(c) Serum follicle stimulating hormone (FSH);

(d) Serum luteinizing hormone (LH).

(3) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The level of DBCP to which the employee is exposed; and

(iv) A description of any personal protective equipment used or to be used.

(4) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of the medical tests performed;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(c) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(1) *Employee information and training.—(1) Training Program.* (i) Within thirty (30) days of the effective date of this standard, the employer shall insti-

tute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(i) The employer shall assure that each employee is informed of the following:

(a) The information contained in Appendixes A, B, and C;

(b) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(c) The purpose, proper use, and limitations of respirators;

(d) The purpose and description of the medical surveillance program required by paragraph (k) of this section; and

(e) A review of this standard.

(2) *Access to Training Materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Secretary and the Director.

(m) *Signs and labels.*—(1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

## DANGER

1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

## CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

## RESPIRATOR REQUIRED

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this paragraph need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

## DANGER

1,2-Dibromo-3-chloropropane

## CANCER HAZARD

(n) *Recordkeeping.*—(1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(a) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(b) A description of the sampling and analytical methods used;

(c) Type of respiratory worn, if any; and

(d) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard and for any additional period required by the permanent standard.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by paragraph (k) of this section.

(ii) This record shall include:

(a) A copy of the physician's written opinion.

(b) Any employee medical complaints related to exposure to DBCP;

(c) A copy of the information provided the physician as required by paragraph (k)(3) of this section; and

(d) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard and for any additional time required by the permanent standard.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure monitoring records required by this section be made available upon request, for examination and copying to the affected employee or former employee, and their designated representatives.

(iii) The employer shall assure that employee medical records required to be maintained by this section be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee or former employee or designated representative.

(o) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of em-

ployee exposure to DBCP conducted under paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(a) Receive an explanation of the measurement procedures;

(b) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(c) Record the results obtained.

(p) *Effective date.* This section shall become effective September 9, 1977.

(q) *Appendices.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

## APPENDIX A—SUBSTANCE SAFETY DATA SHEET FOR DBCP

## I. SUBSTANCE IDENTIFICATION

A. Synonyms and trade names: DBCP; Dibromochloropropane; Fumazone (Dow Chemical Co. TM); Nemaflume; Nemaflon (Shell Chemical Co. TM); Nemaset; BBC 12; and OS 1879.

B. DBCP can be found as a: Concentrate; liquid; solution; and granules;

C. DBCP is used on crops including: cotton; soybeans; fruits; nuts; vegetables; and ornamentals.

D. DBCP can be applied to crops: Before planting; during planting; and after planting.

E. Permissible exposure: Exposure may not exceed either:

1. 10 parts DBCP per billion parts of air (10 ppb) averaged over the eight-hour work day; or

2. 50 parts DBCP per billion parts of air (50 ppb) averaged over any 15 minute period in the workday.

## II. HEALTH HAZARD DATA

A. Routes of entry: Employees may be exposed:

1. Through inhalation (breathing);  
2. Through ingestion (swallowing);  
3. Skin contact; and  
4. Eye contact.

B. Effects of overexposure:  
1. Short-term exposure: DBCP may cause drowsiness, irritation of the eyes, nose, throat and skin, nausea and vomiting. In addition, overexposure may cause damage to the lungs, liver or kidneys.

2. Long-term exposure: Prolonged or repeated exposure to DBCP may cause injury to the lungs, liver or kidneys. DBCP has been associated with sterility in humans and laboratory animals. It also has been shown to produce cancer in laboratory animals.

3. Reporting Signs and Symptoms: If you develop any of the above signs or symptoms that you think are caused by exposure to DBCP, you should inform your employer.

## III. EMERGENCY FIRST AID PROCEDURES

A. **Eye exposure.** If DBCP liquid or dust containing DBCP gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with DBCP.

B. **Skin exposure.** If DBCP liquids or dusts containing DBCP get on your skin, immediately wash using soap or mild detergent and water. If DBCP liquids or dusts containing DBCP penetrate through your clothing, remove the clothing immediately and wash. If irritation is present after washing get medical attention.

C. **Breathing.** If you or any person breathe in large amounts of DBCP, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Do not use mouth-to-mouth. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. **Swallowing.** When DBCP has been swallowed and the person is conscious, give the person large amounts of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. **Rescue.** Notify someone. Put into effect the established emergency rescue procedures. Know the locations of the emergency rescue equipment before the need arises.

## IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. **Respirators.** You may be required to wear a respirator for non-routine activities or in emergencies and while your employer is in the process of reducing DBCP exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines Approval label). For effective protection, a respirator must fit your face and head snugly. The respirator should not be loosened or removed in work situations where its use is required. DBCP does not have a detectable odor except at 300 times or more above the permissible exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily. Re-use of these may allow DBCP to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell DBCP while wearing a respirator, the respirator is not working correctly; go immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. **Protective Clothing.** You should wear impervious coveralls or similar fullbody work clothing, gloves, headcoverings, boots or shoe coverings to avoid contact with liquid or dust containing DBCP. Standard rubber and neoprene gloves do not offer adequate protection.

DBCSP should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with the material, and if they do, they should be promptly removed and not worn again until completely free of the material. Turn in impervious clothing that has developed leaks for repair or replacement.

C. **Eye protection.** You must wear splash-proof safety goggles where there is any possibility of DBCP liquid or dust contacting your eyes.

## V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. DBCP must be stored in tightly closed containers in a cool, well-ventilated area.

B. If your work clothing may have become contaminated with DBCP, or liquids or dusts containing DBCP, you must change into uncontaminated clothing before leaving the work premises.

C. You must promptly remove any non-impervious clothing that becomes contaminated with DBCP. This clothing must not be re-worn until the DBCP is removed from the clothing.

D. If your skin becomes contaminated with DBCP, you must promptly and thoroughly wash or shower with soap or mild detergent and water to remove any DBCP from your skin.

E. You must not keep food, beverages, or smoking materials, nor eat or smoke, in areas where DBCP is handled, processed or stored.

F. If you handle DBCP, you must wash your hands thoroughly with soap or mild detergent and water, before eating, smoking or using toilet facilities.

G. Ask your supervisor where DBCP is used in your work area and for any additional safety and health rules.

## VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for DBCP. In addition, your employer must instruct you in the safe use of DBCP, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to DBCP. You or your representative have the right to observe employee exposure measurements and to record the result obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he is required to inform you of the actions which are being taken to reduce your exposure.

C. Your employer is required to keep records of your exposure and medical examinations. Your employer is required to keep exposure and medical data for at least the effective period of this emergency temporary standard.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

## APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES FOR DBCP

## I. PHYSICAL AND CHEMICAL DATA

## A. Substance Identification.

1. **Synonyms:** 1,2-dibromo-3-chloropropane; DBCP, Fumazone; Nemaforme; Nema-gon; Nemaset; BBC 12; OS 1879. DBCP is also included in agricultural pesticides and fumigants which include the phrase "Nema" in their name.

2. **Formula:** C<sub>3</sub>H<sub>5</sub>Br<sub>2</sub>Cl

3. **Molecular Weight:** 236

## B. Physical Data.

1. **Boiling point (760 mm Hg):** 195C (383F)

2. **Specific gravity (water=1):** 2.093

3. **Vapor density (air=1 at boiling point of DBCP):** Data not available

4. **Melting point:** 6C (43F)

5. **Vapor pressure at 20C (68F):** 0.8 mm Hg

6. **Solubility in water:** 1000 ppm

7. **Evaporation rate (Butyl Acetate=1):** very much less than 1

8. **Appearance and odor:** Dense yellow or amber liquid with a pungent odor at high

concentrations. Any detectable odor of DBCP indicates overexposure.

## II. FIRE EXPLOSION AND REACTIVITY HAZARD DATA

## A. Fire.

1. **Flash point:** 170 F TOC.

2. **Autoignition temperature:** Data not available.

3. **Flammable limits in air, % by volume:** Data not available.

4. **Extinguishing media:** Carbon dioxide, dry chemical.

5. **Special fire-fighting procedures:** Do not use a solid stream of water since a stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

6. **Unusual fire and explosion hazards:** None known.

7. **For purposes of complying with the requirement of 29 CFR 1910.106, liquid DBCP is classified as a class III A combustible liquid.**

8. **For the purpose of complying with 29 CFR 1910.309, the classification of hazardous locations as described in article 500 of the National Electrical Code for DBCP shall be class I group D.**

9. **For the purpose of compliance with § 1910.157, DBCP is classified as a Class B fire hazard.**

10. **For the purpose of compliance with § 1910.178, locations classified as hazardous locations due to the presence of DBCP shall be Class I, Group D.**

11. **Sources of ignition such as smoking or open flames are prohibited where DBCP presents a fire or explosion hazard.**

## B. Reactivity

1. **Conditions contributing to instability:** None known.

2. **Incompatibilities:** Reacts with chemically active metals, such as aluminum, magnesium and tin alloys.

3. **Hazardous decomposition products:** Toxic gases and vapors (such as HBr, HCl and carbon monoxide) may be released in a fire involving DBCP.

4. **Special precautions:** DBCP will attack some rubber materials and coatings.

## III. SPILL, LEAK AND DISPOSAL PROCEDURES

A. If DBCP is spilled or leaked, the following steps should be taken:

1. The area should be evacuated at once and re-entered only after thorough ventilation.

2. Ventilate area of spill or leak.

3. If in liquid form, collect for reclamation or absorb in paper, vermiculite, dry sand, earth or similar material.

4. If in solid form, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until cleanup has been completed.

## C. Waste disposal methods:

1. For small quantities of liquid DBCP absorb on paper towels, remove to a safe place (such as a fume hood) and burn the paper. Large quantities can be reclaimed or collected and atomized in a suitable combustion chamber equipped with an appropriate effluent gas cleaning device. If liquid DBCP is absorbed in vermiculite, dry sand, earth or similar material and placed in sealed containers it may be disposed of in a state-approved sanitary landfill.

2. If in solid form, for small quantities place on paper towels, remove to a safe place (such as a fume hood) and burn. Large quantities may be reclaimed. However, if this is not practical, dissolve in a flammable solvent (such as alcohol) and atomize in a suitable combustion chamber equipped with

an appropriate effluent gas cleaning device. DBCP in solid form may also be disposed in a state approved sanitary landfill.

#### IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit.

1. *Eight hour exposure evaluation.* Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) four-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

2. *Ceiling Evaluation.* Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of DBCP in the employee's breathing zone. A minimum of three measurements should be taken on one work shift. The highest of all measurements taken is an estimate of the employee's exposure.

3. *Monitoring Techniques.* The sampling and analysis under this section may be performed by collecting the DBCP vapor on charcoal adsorption tubes with subsequent chemical analyses. The method of measurement chosen should determine the concentration of airborne DBCP to an accuracy of plus or minus 25%. If charcoal tubes are used a total volume of 10 liters should be collected at a flow rate of 50 cc. per minute for each tube. Analyse the resultant samples as you would samples of halogenated solvent.

C. Since many of the duties relating to employee protection are dependent on the results of monitoring and measuring procedures, employers should assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

#### V. PROTECTIVE CLOTHING

Employees should be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with DBCP. Because DBCP is absorbed through the skin, it is important to prevent skin contact with both liquid and solid forms of DBCP. Protective clothing should include impermeable coveralls or similar fullbody work clothing, gloves, headcoverings, and workshoes or shoe coverings. Standard rubber and neoprene gloves do not offer adequate protection and should not be relied upon to keep DBCP off the skin. DBCP should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with the materials, and if they do, they should be promptly removed and not worn again until completely free of the material. Any protective clothing which has developed leaks or is otherwise found to be defective should be repaired or replaced. Employees should also be required to wear splash-proof safety goggles where there is any possibility of DBCP contacting the eyes.

#### VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141 the following items should be emphasized:

1. The workplace should be kept clean, orderly and in a sanitary condition;
2. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where DBCP dust or liquids are found. To minimize the con-

tamination of air with dust, vacuuming with either portable or permanent systems may be used. If a portable unit is selected, the exhaust should be attached to the general workplace exhaust ventilation system, or collected within the vacuum unit equipped with high efficiency filters or other appropriate means of contamination removal and not used for other purposes. Units used to collect DBCP should be labeled as prescribed in § 1910.1044(m) (DBCP standard).

3. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of DBCP from the skin.

4. Change or dressing rooms with individual clothes storage facilities should be provided to prevent the contamination of street clothes with DBCP. Because of the hazardous nature of DBCP, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

#### VII. MISCELLANEOUS PRECAUTIONS

A. Store DBCP in tightly closed containers in a cool, well ventilated area.

B. Use of supplied-air suits or other impervious clothing (such as acid suits) may be necessary to prevent skin contact with DBCP. Supplied-air suits should be selected, used, and maintained under the supervision of persons knowledgeable of limitations and potential life-endangering characteristics of supplied-air suits.

C. Advise employees of all areas and operations where exposure to DBCP could occur.

#### VIII. COMMON OPERATIONS

Common operations in which exposure to DBCP is likely to occur are: During its production; formulation into pesticides and fumigants; application of such pesticides and fumigants; and work in areas where such pesticides and fumigants have been applied, and processing of agricultural products containing residues of DBCP.

#### APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR DBCP

##### I. ROUTE OF ENTRY

Inhalation; skin absorption.

##### II. TOXICOLOGY

Recent data collected on workers involved in the manufacture and formulation of DBCP has shown that exposures to DBCP can cause sterility. This finding is supported by studies showing that DBCP causes sterility in animals. Chronic exposure to DBCP resulted in pronounced necrotic action on the parenchymatous organs (i.e., liver, kidney, spleen) and on the testicles of rats. Rats that were chronically exposed to DBCP also showed changes in the composition of the blood, showing low RBC, hemoglobin, and WBC, and high reticulocyte levels as well as functional hepatic disturbance, manifesting itself in a long prothrombin time. Reznik et al. noted a single dose of 100 mg produced profound depression of the nervous system of rats. Their condition gradually improved. Acute exposure also resulted in the destruction of the sex gland activity of male rats as well as causing changes in the estrous cycle in female rats. Animal studies has also associated DBCP with an increased incidence of carcinoma. Olson et al. orally administered DBCP to rats and mice 5 times per week at experimentally predetermined maximally tolerated doses and at half those doses. As early as ten weeks after initiation of treat-

ment, DBCP induced a high incidence of squamous cell carcinomas of the stomach with metastases in both species. DBCP also induced mammary adenocarcinomas in the female rats at both dose levels.

#### III. SIGNS AND SYMPTOMS

A. Inhalation: Nausea, eye irritation, conjunctivitis, respiratory irritation, pulmonary congestion or edema, CNS depression with apathy, sluggishness, and ataxia.

B. Dermal: Erythema or inflammation and dermatitis on repeated exposure.

#### IV. SPECIAL TESTS

1. Complete semen analysis (sperm count, motility, morphology);
2. Complete urinalysis;
3. Complete blood count;
4. Serum Multiphasic Analysis (SMA 12);
5. Serum testosterone;
6. Serum Follicle Stimulating Hormone (FSH); and
7. Serum Luteinizing Hormone (LH).

#### V. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Contaminated clothing and shoes should be removed immediately.

Flush eyes and wash contaminated skin. If swallowed and the person is conscious, induce vomiting. Recovery from mild exposures is usually rapid and complete.

#### VI. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. *Other considerations.* DBCP can cause both acute and chronic effects.

It is important that the physician become familiar with the operating conditions in which exposure to DBCP occurs. Those with respiratory disorders may not tolerate the wearing of negative pressure respirators.

B. *Surveillance and screening.* Medical histories and laboratory examinations are required for each employee subject to exposure to DBCP. The employer should screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. *Liver disease.* The primary site of biotransformation and detoxification of DBCP is the liver.

Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of DBCP. These precautions should be considered before exposing persons with impaired liver function to DBCP.

2. *Renal disease.* Because DBCP has been associated with injury to the kidney it is important that special consideration be given to those with possible impairment of renal function.

3. *Skin disease.* DBCP can penetrate the skin and can cause erythema on prolonged exposure. Persons with pre-existing skin disorders may be more susceptible to the effects of DBCP.

4. *Blood dyscrasias.* DBCP has been shown to decrease the content of erythrocytes, hemoglobin, and leukocytes in the blood, as well as increase the prothrombin time. Persons with existing blood disorders may be more susceptible to the effects of DBCP.

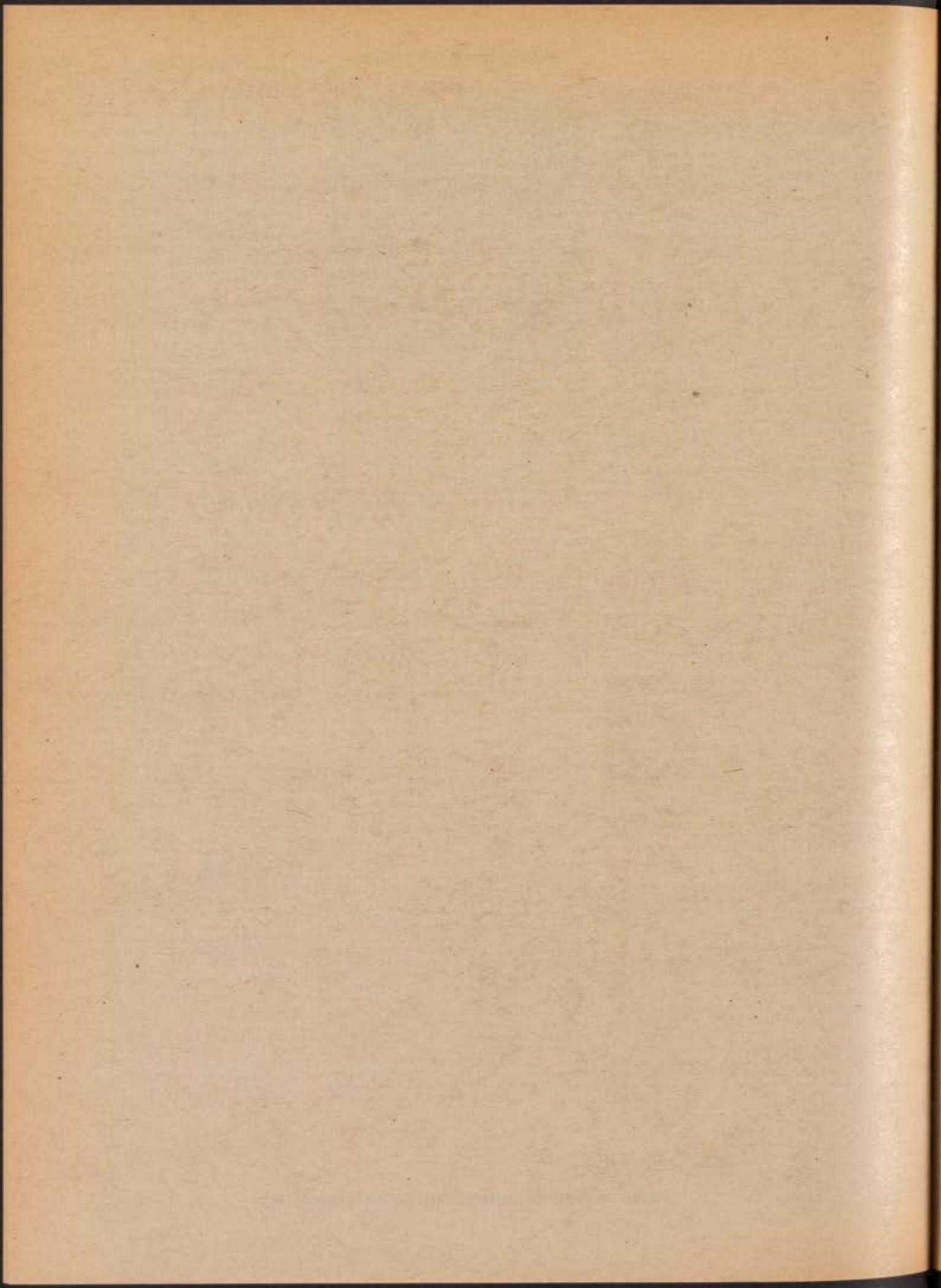
5. *Reproductive disorders.* Animal studies have associated DBCP with various effects on the reproductive organs.

Among these effects are atrophy of the testicles and changes in the estrous cycle. Persons with pre-existing reproductive disorders may be at increased risk to these effects of DBCP.

## REFERENCES

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**Register  
Federal Order**

**FRIDAY, SEPTEMBER 9, 1977**

**PART VIII**



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**DEPARTMENT OF  
COMMERCE**

**National Oceanic and  
Atmospheric Administration**



**FISHERY CONSERVATION  
AND MANAGEMENT**

**Foreign Fishing**

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[ 50 CFR Part 611 ]

## FOREIGN FISHING

## Fishery Conservation and Management

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Proposed amendments to regulations.

SUMMARY: Modifications to the foreign fishing regulations promulgated under the Fishery Conservation and Management Act of 1976 are being proposed in light of deficiencies discovered during the first year of administration. The intended effect is to improve the administration of fisheries over which the United States exercises exclusive fishery management authority.

DATE: Comments must be received by October 8, 1977.

ADDRESS: Comments may be submitted in writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235.

## FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone number 202-634-7454.

SUPPLEMENTARY INFORMATION: The proposed amended regulations are similar in most respects to the foreign fishing regulations which are in effect for 1977 (50 CFR Part 611). Subpart A (the general provisions section) has been refined in light of the experience gained during the first year of administering the provisions of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801-1882 (Act).

Several changes have been made in the definitions (§ 611.2). Most of these are clarifications. However, § 611.2(g) contains proposed procedures under which the Director may amend existing foreign fishing permits. This proposal was first published as a proposed amendment in 42 FR 35996 on July 13, 1977.

There is a change in reporting procedures. Section 611.4(b) is intended to encourage foreign fisherman to communicate necessary information through commercial channels rather than through the U.S. Coast Guard.

Section 611.10 would prohibit foreign fishing support vessels from supporting U.S. fisheries unless specifically authorized to do so.

Subpart C—Atlantic Fisheries. The regulations governing foreign fishing in the fishery conservation zone in the north Atlantic and mid-Atlantic areas have been simplified. Provision is made in this Subpart for reassessment of available surpluses of several important fish-

eries. In addition, negotiations are currently being conducted with Canada concerning the mutual maritime boundaries and resource matters which may impact on these regulations when they become final.

Foreign fishermen will receive allocations of both directed fishery species and incidental fishery species. It will be the responsibility of the foreign fishermen to plan their fishing in such a way that the incidental catch allocation is not reached before the directed fishery allocation is reached.

Continued fishing in the directed fishery will not be allowed if it could result in additional fishing mortality of the incidental species. Fishing vessels of a nation whose allocation of incidental species had been filled would have to stop fishing.

Subpart E—Northeast Pacific Ocean. The total allowable level of foreign fishing for hake has been reduced, and there has been a decrease in the minimum mesh size for nets used by foreign fishermen.

Subpart F—Western Pacific Ocean. There are two modifications in the 1978 regulations. The first restricts foreign fishing to a very specific area in the fishery conservation zone. The second modification shifts coral from an incidental fishery to a prohibited species. Foreign fishermen taking coral will now be required to record certain data pertaining to that catch and then return the coral to the sea.

Subpart G—North Pacific Ocean and Bering Sea. There is a reduced directed fishery for one species of tanner crab (*C. bairdi*). The total allowable level of foreign fishing for sablefish, herring, and other species has been reduced.

Signed at Washington, D.C., this 2d day of September 1977.

WINFRED H. MEIBOHM,  
Acting Deputy Director,  
National Marine Fisheries Service.

## Subpart A—General

Sec.	
611.1	Purpose.
611.2	Definitions.
611.3	Permits for foreign fishing vessels.
611.4	Vessel reporting.
611.5	Vessel identification.
611.6	Facilitation of enforcement.
611.7	Prohibitions.
611.8	Observers.
611.9	Reports and record keeping.
611.10	Fishery support operations.
611.11	Gear conflicts.
611.12	Directed fisheries.
611.13	Incidental catch—prohibited species.
611.14	Incidental catch—other species.
611.15	Disposal of fishing gear and other articles.

## Subpart B—Surpluses

611.20 Allowable level.

## Subpart C—Atlantic Ocean

611.50 Northwest Atlantic Ocean Fisheries.

Subpart D—South Atlantic, Caribbean, and Gulf of Mexico

611.60 [Reserved]

## Subpart E—Northeast Pacific

Sec.  
611.70 Washington, Oregon, California, trawl fishery.

## Subpart F—Western Pacific Ocean

611.80 Seamount groundfish fishery.

## Subpart G—North Pacific Ocean and Bering Sea

611.90 General provisions.

611.91 Crab fishery.

611.92 Gulf of Alaska trawl fishery.

611.93 Bering Sea and Aleutian Islands trawl and herring gillnet fishery.

611.94 Sablefish (blackcod).

611.95 Snails.

## Subpart A—General

## § 611.1 Purpose.

This part governs fishing for over which the United States exercises exclusive fishery management authority under the Fishery Conservation and Management Act of 1976.

## § 611.2 Definitions.

In addition to the definitions contained in the Act, and unless the context requires otherwise, in this Part 611 the terms used shall have the following meaning (some definitions in the Act have been repeated here to aid fishermen in understanding the regulations):

(a) "Act" means the Fishery Conservation Act of 1976, Pub. L. 94-265 (16 U.S.C. 1801-1882).

(b) "Anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters, including but not limited to:

King Salmon (*Oncorhynchus tshawytscha*)  
Pink Salmon (*Oncorhynchus gorbuscha*)  
Chum Salmon (*Oncorhynchus keta*)  
Sockeye Salmon (*Oncorhynchus nerka*)  
Silver Salmon (*Oncorhynchus kisutch*)  
Steelhead Trout (*Salmo gairdnerii*)  
Atlantic Salmon (*Salmo salar*)

(c) "Authorized officer" means:

(1) Any commissioned, warrant or petty officer of the Coast Guard;

(2) Any enforcement agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce or Transportation to enforce the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) "Continental Shelf" means the seabed and subsoil of the submarine areas which appertain to the United States beyond the territorial sea, at any place where the depth of the superjacent waters allows exploitation of the natural resources of such areas.

(e) Continental Shelf fishery resource means the following:

## COLEENTERATA

Bamboo Coral (*Acanella* spp.)  
Black Coral (*Antipathes* spp.)  
Gold Coral (*Callagorgia* spp.)  
Precious Red Coral (*Corrallium* spp.)  
Bamboo Coral (*Keratoisis* spp.)  
Gold Coral (*Parazoanthus* spp.)

CRUSTACEA

- Tanner Crab (*Chionoecetes tanneri*)
- Tanner Crab (*Chionoecetes opilio*)
- Tanner Crab (*Chionoecetes angulatus*)
- Tanner Crab (*Chionoecetes bairdi*)
- King Crab (*Paralithodes camtschatica*)
- King Crab (*Paralithodes platypus*)
- King Crab (*Paralithodes brevipes*)
- Lobster (*Homarus americanus*)
- Dungeness Crab (*Cancer magister*)
- California King Crab (*Paralithodes californiensis*)
- California King Crab (*Paralithodes rathbuni*)
- Golden King Crab (*Lithodes aequispinus*)
- Northern Stone Crab (*Lithodes maja*)
- Stone Crab (*Menippe mercenaria*)
- Deep-sea Red Crab (*Geryon quinqueidens*)

MOLLUSKS

- Red Abalone (*Haliotis refescens*)
- Pink Abalone (*Haliotis coarugata*)
- Japanese Abalone (*Haliotis kamtschaticana*)
- Queen Conch (*Strombus gigas*)
- Surf Clam (*Spisula solidissima*)
- Ocean Quahog (*Arctica islandica*)

SPONGES

- Glove Sponge (*Hippiospongia canaliculata*)
- Sheepswool Sponge (*Hippiospongia lachne*)
- Grass Sponge (*Spongia graminea*)
- Yellow Sponge (*Spongia barbera*)

(f) "Directed fishery" with respect to any species, means a fishery conducted for the purpose of catching that species.

(g) "Director" means the Director of the National Marine Fisheries Service or his designee.

(h) "Existing International Fishery Agreement" means any treaty convention or agreement, to which the United States is a party, which relates to fishing and which was in effect on April 13, 1976, namely:

(1) The International Convention for the High Seas Fisheries of the North Pacific Ocean, with Annex and Protocol of May 9, 1952, as amended; and

(2) The Convention for the Preservation of the Halibut Fishery of the North Pacific Ocean and the Bering Sea of March 2, 1953;

(i) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal or plant life other than marine mammals, birds and highly migratory species.

(j) "Fish over which the United States exercises exclusive fishery management authority" means:

(1) All fish within the fishery conservation zone;

(2) All anadromous species beyond the fishery conservation zone, except when they are within any foreign nation's territorial sea or fishery conservation zone (or equivalent) to the extent that such sea or zone is recognized by the United States; and

(3) All continental shelf fishery resources beyond the fishery conservation zone.

(k) "Fishery" means: (1) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; or

(2) Any fishing for such stocks. (For related definitions, see Directed Fishery, paragraph (f) of this section, and Incidental Catch, paragraph (u) of this section.)

(l) "Fishery conservation zone" means the area adjacent to the United States which, except where modified by international agreement, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

(m) "Fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(n) "Fishing" means: (1) Any activity other than scientific research which does, which is intended to, or which reasonably can be expected to result in the removal from the sea of fish over which the United States exercises exclusive fishery management authority; or

(2) Any operations at sea in support of, or in preparation for, any activity described in subparagraph (1) of this paragraph, including, but not limited to:

(i) Scouting or exploring for the presence of fish by visual, acoustic or other means;

(ii) Processing or refrigerating fish or fish products;

(iii) Transferring or transporting fish or fish products; or

(iv) Supplying another fishing vessel with water, fuel, provisions, personnel, fishing equipment, fish processing equipment, or other supplies.

(o) "Fishing vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for, fishing, except a scientific research vessel.

(p) "Foreign fishing" means fishing by a vessel other than a vessel of the United States.

(q) "Foreign fishing vessel" means any fishing vessel other than a vessel of the United States.

(r) "Gear Conflict" means any incident at sea involving one or more fishing vessels, foreign or domestic—

(1) In which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel, and

(2) Which results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

(s) "Governing International Fishery Agreement" means an agreement between the United States and a foreign nation under Section 201(c) of the Act.

(t) "Highly migratory species" means the species of tuna which in the course of their life cycle spawn and migrate over great distances in the waters of the ocean, including, but not limited to:

- Albacore (*Thunnus alahunga*).
- Blackfin tuna (*Thunnus atlanticus*).
- Bigeye tuna (*Thunnus obesus*).
- Bluefin tuna (*Thunnus thynnus*).
- Yellowfin tuna (*Thunnus albacares*).
- Black skipjack (*Euthynnus lineatus*).
- Kawakawa (*Euthynnus affinis*).
- Little tunny (*Euthynnus alletteratus*).
- Skipjack tuna (*Euthynnus pelamis*).

(u) "Incidental catch" means the fish of any species, other than the directed fishery species, which are caught during a directed fishery.

(v) "Master," with respect to any vessel, means the person in charge of the vessel.

(w) "Operator" means any charterer, whether bareboat, time, or voyage; or any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similarly worded agreement that bestows control over the destination, function or operation of the vessel.

(x) "Prohibited species" means any species of fish for which a foreign fishing vessel has no applicable national allocation or for which the applicable national allocation has been caught.

(y) "Secretary" means the Secretary of Commerce or his designee.

(z) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States. It does not include the Trust Territory of the Pacific Islands.

(aa) "Vessel day" means a unit of fishing effort measured by the presence, for any part of a day, of a vessel rigged for fishing (as defined in paragraphs (n) (1) and (2) of this section) in a designated fishing area.

(bb) "Vessel of the United States" means: (1) A vessel five net tons or over which the U.S. Coast Guard has documented under U.S. law for fisheries, foreign trade, or coastwise trade; or

(2) A vessel under five net tons which is registered under the laws of any State.

§ 611.3 Permits for foreign fishing vessels.

(a) No foreign fishing vessel shall engage in fishing unless it has on board a permit issued to it under this section.

(b) Registration permits for foreign vessels to engage in fishing pursuant to an Existing International Fishery Agreement may be issued annually by the Secretary of State upon application from the foreign country and payment of a fee, if any, established by the Secretary of State.

(c) Permits for foreign fishing vessels to engage in fishing may be issued annually by the Director upon:

(1) His approval of an application from the foreign country;

(2) The foreign country's acceptance of the applicable terms and conditions; and

(3) The payment of the fees established by the Secretary.

(d) To allow time for processing, the foreign country should submit a permit application to the Secretary of State at least 150 days prior to the date on which the foreign vessel desires to start fishing.

(e) Permit applications shall be submitted on forms available from: Office of Fisheries Affairs, Department of State (OES/OFA), Washington, D.C. 20520.

(f) If a foreign fishing vessel has been used in the commission of any act pro-

hibited by § 611.7, the Director may take appropriate action under the administrative civil procedures specified in Part 621 of this chapter.

(g) Permits issued under this section may be modified by the Director as follows:

(1) The Director may modify any permit by amendment of this Part 611 since such regulations are a part of each permit. Any such modification which would adversely affect any permit will be effective no sooner than ten days after publication of the final amended regulation in the FEDERAL REGISTER. Other changes in the regulations may be made effective immediately. Notice of potentially adverse modifications will be sent by the Director to:

(i) Each foreign country whose fishing vessels are affected (via the Secretary of State); and

(ii) The owner and operator of each affected fishing vessel (via the agent).

(2) The Director may modify any permit for purposes of "Conservation and management" (as defined in section 3(2) of the Act) of fishery resources covered by the permit. Such modifications will be effected as follows:

(i) The Director shall notify the owner and operator of the affected foreign fishing vessel of the nature of the proposed modification and shall provide a summary of the reasons underlying the proposal.

(ii) The owner and operator of the affected vessel may:

(A) Submit written comments on the proposed modification within 30 days after receipt of the notice; and

(B) Receive an informal hearing on the proposed modification if his written request for such a hearing is received by the Director within 15 days after receipt of the notice.

(iii) The Director will publish a notice of the proposed modification in the FEDERAL REGISTER, providing for a 30-day public comment period. The Director will also notify the affected Regional Fishery Management Councils, the Secretary of State, and the Secretary of transportation asking for their written comments within 30 days of receipt of such notice.

(iv) Not less than 15 days prior to the date of a hearing, the Director shall:

(A) Publish a notice of the hearing in the FEDERAL REGISTER; and

(B) Notify the requesting owner and operator of the time and place of the hearing.

(v) The Director may allow public participation at the hearing. The requesting owner and operator and other participants may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(vi) The Director shall make a final decision regarding the proposed modification as soon as practicable after the 30-day comment period and the hearing, if any. Notice of the modification will

be published in the FEDERAL REGISTER and will be sent, via the Secretary of State, to the foreign nation involved, the operator of the permitted foreign fishing vessel, each affected Regional Fishery Management Council, the Secretary of State, the Secretary of Transportation, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committees on Commerce, Science and Transportation, and on Foreign Relations of the Senate.

(vii) If necessary to prevent substantial harm to a fishery resource of the United States, the Director may make the proposed modification effective immediately or otherwise earlier than 30 days after the date of notice of proposed modification. In such cases, the Director shall summarize his findings of necessity and the reasons therefor in the notices of the proposed modification required by this section. The Director shall expedite the hearing process whenever a modification has been implemented on an interim basis.

(3) A foreign nation may submit a written request for a modification of any permit applicable to a vessel of that foreign nation. The Director may make technical modifications or corrections requested by the foreign nation such as change in ownership of a vessel, home port, or radio call sign, which will be effective immediately.

(4) If, in the opinion of the Director, a permit change requested by a foreign nation could significantly affect the status of any fishery resource, such request will be treated as an application for a new permit and procedures for issuance of the permit will be in accordance with section 204 of the Act.

(5) Upon deciding to modify a permit under subparagraphs (2) or (3) of this paragraph, the Director shall promptly transmit a revised permit to the Secretary of State for transmittal to the foreign nation involved.

#### § 611.4 Vessel reporting.

(a) The master or operator of each foreign fishing vessel shall notify the National Marine Fisheries Service and the Coast Guard of:

(1) The time and position at which the vessel will begin fishing;

(2) Any change in its directed fishery;

(3) Any change in its fishing area; and

(4) The time and position it will cease fishing, intending to leave the fishery conservation zone.

(b) The notices required by paragraph (a) of this section shall be in writing, in English. They should be delivered via private or commercial communications facilities to the appropriate Coast Guard commander who will relay them to the appropriate National Marine Fisheries Service Region (See Table I).

TABLE I

Area	National Marine Fisheries Service	Coast Guard
Pacific Ocean, off Hawaii and other insular possessions.	Southwest region, Terminal Island, Calif.	Pacific area, San Francisco, Calif. (Telex: 330427).
Pacific Ocean off California, Oregon, and Washington.	Northwest region, Seattle, Wash.	Do.
Pacific Ocean and Bering Sea off Alaska.	Alaska region, Juneau, Alaska.	17th District, Juneau, Alaska (Telex: 8945363).
Atlantic Ocean north of Cape Hattens.	Northeast region, Gloucester, Mass.	Atlantic area, New York, N.Y. (Telex: 128831).
Atlantic Ocean south of Cape Hattens, Gulf of Mexico, and the Caribbean Sea.	Southeast region, St. Petersburg, Fla.	Do.

(c) The notices required by paragraphs (a) (1) and (a) (4) of this section must be delivered to the appropriate Coast Guard commander at least 24 hours prior to beginning or ceasing fishing. The other notices required by paragraph (a) of this section must be transmitted by the quickest means available prior to the event requiring notice.

(d) The notices required by this section shall be given in the following format:

From: (Vessel's name, international radio call sign, and permit number.)

To: (The appropriate National Marine Fisheries Service regional director as set forth in Table I.) (The appropriate Coast Guard commander as set forth in Table I.)

This vessel will (begin) (cease) conducting the activities authorized by its permit in the \_\_\_\_\_ fishery at \_\_\_\_\_ G.m.t. on \_\_\_\_\_ (Date)

in position \_\_\_\_\_ N. \_\_\_\_\_ (Latitude) \_\_\_\_\_ (Longitude)

W. (or E.), or this vessel will shift to the \_\_\_\_\_ (fishery) (fishing area) at \_\_\_\_\_

G.m.t. on \_\_\_\_\_ in position \_\_\_\_\_ N. \_\_\_\_\_ (Date) \_\_\_\_\_ (Latitude)

\_\_\_\_\_ W. (or E.). \_\_\_\_\_ (Longitude)

#### § 611.5 Vessel identification.

(a) (1) Each foreign fishing vessel assigned an international radio call sign (IRCS) shall display that call sign amidships on the deck house or hull, and on an appropriate weather deck.

(2) Each foreign fishing vessel not assigned an IRCS, such as a small trawler associated with a mothership or one of a pair trawlers, shall display the IRCS of the associated vessel followed by a numerical suffix. (For example, JCZM-1, JCZM-2, etc. would be displayed on small trawlers not assigned an IRCS operating with a mothership whose IRCS is JCZM; JANP-1 would be displayed by a pair trawler not assigned an IRCS operating with a trawler whose IRCS is JANP.)

(b) Each United States fishing vessel shall be marked as required by the regulations implementing the fishery management plan for the fishery in which it is fishing.

(c) The identifying markings for foreign fishing vessels shall be permanently affixed to the vessel in contrasting block Roman alphabet letters and Arabic numerals at least one meter in height for vessels over 20 meters in length and at

least one-half meter in height for all other vessels.

(d) The operator of each vessel shall:

(1) Keep the identifying markings clearly legible and in good repair; and

(2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the markings from an enforcement vessel or aircraft.

(e) Each fishing vessel shall display the lights and shapes prescribed by the International Regulations for Preventing Collisions at Sea, 1972, C.G. 169, for the activity in which the vessel is engaged.

(f) All fishing gear, including trawl doors, shall be marked with the vessel identification number in an indelible way so that any derelict or lost gear may be identified as to its owner.

#### § 611.6 Facilitation of enforcement.

(a) The operator of each fishing vessel shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the vessel for purposes of enforcing the Act and these regulations.

(b) Upon being approached by a Coast Guard cutter or aircraft or other vessel or aircraft authorized to enforce the Act, a vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly;"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc." which is the call for an unknown station, to which the signalled vessel should respond by illuminating (or clearing obstructions from) the vessel identification required by § 611.5.

(c) A vessel signalled to stop or heave to for boarding shall:

(1) Guard channel 16, VHF-FM, if available;

(2) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(3) Provide a ladder for the authorized officer and his party;

(4) When necessary to facilitate the boarding, provide a manrope, safety line and illumination for the ladder; and

(5) Take such other actions as necessary to ensure the safety of the authorized officer and his party and to facilitate the boarding.

(d) A Coast Guard cutter whose personnel wish to board a fishing vessel for purposes other than law enforcement will display the international signal "SQ3 RQ" which means "Will you stop or heave to? May I board you?"

(e) Each foreign fishing vessel shall guard 500 KHz or 2182 KHz, as available, each day from 2000 to 2030 GMT.

(f) Foreign fishing vessels, through a fleet commander or otherwise shall provide vessel positions within 4 hours when requested by National Marine Fisheries Service or Coast Guard.

#### § 611.7 Prohibitions.

(a) It is unlawful for any person to:

(1) Violate any provision of the Act or any regulation or permit issued under the Act;

(2) Use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued under the Act;

(3) Violate any provision of, or regulation under, an applicable Governing International Fishery Agreement entered into under Section 201(c) of the Act;

(4) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act or any regulation, permit, or agreement referred to in paragraph (a) (1) or (a) (3) of this section;

(5) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a) (4) of this section;

(6) Resist a lawful arrest for any act prohibited by this section;

(7) Ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (a) (1) or (a) (3) of this section; or

(8) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(b) It is unlawful for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing:

(1) Within the boundaries of any State; or

(2) Within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204(b) or 204(c) of the Act.

(c) A person is guilty of a criminal offense if he commits any act prohibited by paragraph (a) (4), (a) (5), (a) (6), (a) (8) or (b) of this section.

#### § 611.8 Observers.

(a) For the purposes of collecting scientific data and carrying out such other management and enforcement activities as he may authorize, the Secretary may assign an observer to any foreign fishing vessel. The owner or operator of any vessel to which such an observer is assigned shall:

(1) Provide, at no cost to the observer or the United States, accommodations for the observer aboard the vessel which are equivalent to those provided to the officers of that vessel.

(2) Cause the vessel to proceed to such places and at such times as may be designated by the Director for the purpose

of embarking and debarking the observer;

(3) Allow the observer to use the vessel's communications equipment and personnel as necessary for the transmission and receipt of messages; and

(4) Provide all other reasonable assistance to enable the observer to carry out his duties.

(b) The owner or master of each foreign fishing vessel to which an observer is assigned shall reimburse the United States for the total costs of placing the observer aboard, including salary, per diem, and transportation of observers and overhead costs. Payment of these costs shall be made upon billing at the end of the calendar year.

(c) No person shall forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer placed aboard a vessel under this section.

#### § 611.9 Reports and record keeping.

(a) The master of each fishing vessel shall maintain an accurate log of catch and effort information in accordance with the regulations for the fishery in which the fishing vessel is engaged.

(b) Upon each transfer of any fish or fishery product, the masters of both the transferring and receiving vessels shall record in their respective logs:

(1) The date, time, and position of the transfer;

(2) The weight or number by species of all fish transferred; and

(3) The name, nationality, and permit number of the other vessel involved in the transfer.

(c) The master of each foreign fishing vessel shall record in a communications log, the Greenwich Mean Time and content of each notification made under § 611.4.

(d) In addition, the owner or operator of each fishing vessel shall provide to the Director, in such form and at such times as the Director may prescribe, such other information as the Director may request to carry out his duties under the Act.

(e) The records and logbooks required to be kept by this section shall be:

(1) Maintained in a form satisfactory to the Director; and

(2) Made available for inspection by any authorized officer at any time.

#### § 611.10 Fishery support operations.

(a) Fishery support operations are those activities described in § 611.2(n) (2).

(b) Fishery support operations by foreign vessels within the fishery conservation zone are allowed only in those areas and during those times in which the vessel being supported is authorized to conduct directed fisheries, and in such other areas as may be designated in these regulations.

(c) No foreign fishing vessel may conduct operations at sea in support of United States fishing vessels except as specifically authorized in the supporting vessel's permit.

### § 611.11 Gear conflicts.

(a) Each fishing vessel shall conduct its operations with due regard for the activities of other fishing vessels. Fishing vessels using mobile fishing gear shall take special care to minimize the possibility of conflict with, and damage to, fixed fishing gear.

(b) Each foreign fishing vessel shall maintain an up to date plot of fixed gear areas on a chart on its bridge.

(c) Each fishing vessel which is involved in a gear conflict, or which retrieves the gear of another fishing vessel in its gear, shall immediately notify the appropriate Coast Guard commander as indicated in Table I accompanying § 611.4 by calling:

- (1) "Any Coast Guard Unit" (voice); or
- (2) "NCG" (radiotelegraphy); on 500 KHz, 2182 KHz or channel 16 VHF-FM.
- (d) [Reserved]

### § 611.12 Directed fisheries.

(a) No foreign fishing vessel may conduct a directed fishery unless such directed fishery is authorized by, and conducted in accordance with, this Part.

(b) A foreign fishing vessel's authorization to conduct a directed fishery pursuant to the terms and conditions found in § 611.20 shall be cancelled when the Director finds that:

(1) The total allowable level of foreign fishing for the directed fishery species has been reached;

(2) The overall vessel days authorized for the directed fishery species or area have been expended;

(3) The total allowable level of foreign fishing for the incidental catch of a species (including "other finfish") taken during the directed fishery has been reached;

(4) The national allocation for the directed fishery species, which applies to the vessel in question, has been reached;

(5) The national allocation applicable to the vessel in question, which limits the incidental catch of species (including "other finfish") taken during the directed fishery, has been reached; or

(6) The authorized vessel days applicable to vessels of its nationality, which pertain to directed fishery species or area, have been expended;

(c) The Director will notify (1) the foreign nation involved and (2) the agent of the owner or operator of the affected fishing vessels at least 48 hours prior to closing a directed fishery under paragraph (b) of this section, if possible. Such notification should be considered a courtesy. Failure of the Director to so notify will not relieve the foreign nation of possible liability, including the remedy described in § 611.20(f).

### § 611.13 Incidental catch—prohibited species.

(a) No specimen or part of a prohibited species may be retained except for the time necessary to dispose of it as required under subparagraph (d) of this section.

(b) It shall be a rebuttable presumption that any prohibited species found on board a foreign fishing vessel were taken in violation of this part.

(c) Each foreign fishing vessel shall minimize its catch of prohibited species.

(d) Each foreign fishing vessel shall sort its catch as soon as possible after retrieval of its gear and shall return the catch of prohibited species to the sea immediately with a minimum of injury regardless of its condition.

(e) The following is a partial list of species which are prohibited for 1978, (see § 611.2(x)) except as otherwise specified in these regulations:

- (1) All creatures of the continental shelf.
- (2) All species of salmon (both Atlantic and Pacific).
- (3) Steelhead trout.
- (4) Pacific halibut.
- (5) Striped bass.
- (6) Atlantic Cod.
- (7) Atlantic Haddock.
- (8) Atlantic Yellow tail flounder.

### § 611.14 Incidental catch—other species.

(a) The incidental catch of species other than prohibited species may be retained if specifically authorized by this part.

(b) Species which a foreign fishing vessel is not specifically authorized to retain under this Part shall be treated as prohibited species in accordance with § 611.13.

### § 611.15 Disposal of fishing gear and other articles.

(a) Except in cases of force majeure, no fishing vessel may discharge or otherwise put into the waters of the fishery conservation zone, any article which may interfere with fishing, or obstruct fishing gear or fishing vessels, or cause damage to any fishery resource or marine mammals.

(b) All fishing gear which is set or otherwise deployed in a manner in which it may entrap or otherwise catch fish shall be attended as frequently as necessary to insure that its catch remains suitable for the use intended.

(c) No fishing gear may be willfully discarded within the fishery conservation zone.

(d) Fishing vessels are obligated to report the position of any derelict fishing gear encountered in the fishery conservation zone.

(e) Exact location of lost gear shall be transmitted immediately to the ap-

propriate Regional Director of National Marine Fisheries Service.

### SUBPART B—SURPLUSES

#### § 611.20 Allowable level.

(a) The total allowable level of foreign fishing (TALFF), if any, with respect to any fishery subject to the exclusive fishery management authority of the United States shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States.

(b) The surpluses for foreign fishing for 1978 by ocean area are as follows:

Species	Ocean area	Quantity (metric tons)
Silver hake	Atlantic	145,400
Red hake	do	127,400
Shortfinned squid	do	123,500
Longfinned squid	do	119,000
Atlantic herring	do	13,200
Atlantic mackerel	do	34,000
River herring	do	7,500
Butterfish	do	1,000
All other finfish	do	246,800
Pacific hake	Pacific	189,000
Jack mackerel	do	4,000
Other species	do	0
Pollock	Gulf of Alaska	151,100
Pacific Ocean perch	do	22,900
Other rockfishes	do	7,400
Flounders	do	24,300
Sablefish	do	18,400
Atka mackerel	do	24,800
Pacific cod	do	25,100
Other species	do	14,000
Pollock	Bering Sea	950,000
Yellowfin sole	do	106,000
Other flounders	do	139,000
Pacific Ocean perch	do	21,500
Sablefish	Aleutian and Bering	6,500
Cod	Bering Sea	58,000
Herring	do	8,670
Squid	do	10,000
Other species (trawl fishery)	do	82,800
Atka mackerel (Aleutians)	do	24,800
Tanner crab	do	12,500
Snails (meats)	do	3,000
Seamount groundfish	Western Pacific	2,000

<sup>1</sup> The TALFF for these species will be reevaluated if it is determined by the Secretary on or about June 15, 1978, that the U.S. fleet will not take its estimated harvest.

<sup>2</sup> Permitted as incidental catch only.

<sup>3</sup> The TALFF for these species will be reevaluated if it is determined by the Secretary on or about July 31, 1978 that the U.S. fleet will not take its estimated harvest.

<sup>4</sup> Includes Pacific Ocean perch, other rockfishes, flounders, sablefish, and others. Incidental catch only permitted at fixed low percentages of hake catch.

<sup>5</sup> The TALFF for sablefish will be reevaluated if it is determined by the Secretary on or about Nov. 1, 1978, that the U.S. fleet will not take its estimated harvest.

(c) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the surpluses identified in paragraph (b) of this section. Those allocations (tonnage and vessel days) among foreign nations are presented in the following tables:

Table I. Atlantic Coast Allocation [reserved].  
Table II. Pacific Coast Allocation [reserved].

(d) The above allocations will be used by the United States in computing the

"poundage fees" to be assessed for foreign fishing during 1978.

(e) An allocation in terms of vessel days has been provided by the National Marine Fisheries Service for the Pacific seamount groundfish fishery and the Northeast Pacific hake fishery, in addition to a tonnage allocation.

(f) Each foreign nation shall take necessary measures to ensure that fishing vessels of that nation shall not in any year exceed such nation's allocation for any species.

(g) Any failure by the Director to make any notification to the foreign nation or to any person in accordance with § 611.12(c) or any other notice requirement in these regulations shall not excuse any foreign nation from complying with the requirements of paragraph (f) of this section.

#### Subpart C—Atlantic Ocean

##### § 611.50 Northwest Atlantic Ocean Fisheries.

(a) *Purpose.* Regulations of this section shall apply to foreign fishing vessels fishing for all species (except highly migratory species or species covered by any reciprocal fisheries agreement between the United States and Canada), during the period January 1, 1978, to December 31, 1978, within the portion of the Atlantic Ocean over which the United States exercises exclusive fishery management authority. Unless otherwise stated, all terms used in this section shall have the same meanings as used in Subpart A of this part. All scientific names of species of fish are contained in Appendix I.

(b) *Catch quotas.* The total allowable level of foreign fishing (TALFF) for all

species covered by this section is set out in § 611.20(b). Table 1 of § 611.20(c) specifies the national allocations of the TALFF for the Atlantic Coast fisheries. It shall be unlawful for any foreign nation to exceed its authorized species allocation. The directed fishery species for 1978 are mackerel, silver and red hake, long-finned squid, and short-finned squid. All other species which may be taken and retained are incidental species. The national allocations shown on Table 1 of § 611.20(c) include both directed species and incidental species. (See § 611.13 for discussion of prohibited species.)

(c) *Authorized fishing seasons and areas.* It shall be unlawful for any foreign fishing vessel to conduct fishing operations except during the season and in the areas specified in Table I.

FOREIGN FISHING REQUIREMENTS<sup>1</sup>

SPECIES	Quota <sup>1</sup> (mt)	Type Direct	Fishery Incidental	Fishing Area <sup>2</sup>	Fishing Season <sup>3</sup>
1. Prohibited (a) Any Continental Shelf fishery resource (b) Any other crustaceans or mollusks, except squids (c) See other species §61.13 2. Regulated	Zero	N/A	N/A	None	None
(a) Silver hake	45,400	X	X	Hake 1	January thru March April thru June
(b) Red Hake	27,400	X	X	Hake 1	January thru March April thru June
(c) Squids short-finned	23,500	(X (X ( (	X X	Squid 1 Squid 2	November, December January thru March, June 15 thru September 15, November, December
long-finned	19,000	(X (	X	Squid 3	January thru March, November December
(d) Mackerel	34,000	(X (X	X X	Squid 4 Squid 5	January thru March March, July thru August 15
(e) Other finfish	500		X	N/A	N/A
(i) River herring					
(ii) Butterfish	1,000		X	N/A	N/A
(iii) Atlantic herring	3200		X	N/A	N/A
(IV) All others (See Table IV) (reserved)	46,800		X	N/A	N/A

N/A means not applicable

## FOOTNOTES

<sup>1</sup> Includes both the directed fishery allocation and the incidental catch allocation.<sup>2</sup> See Figures 1 and 2.<sup>3</sup> Times based on local times in the area.

(d) *Closures of authorized fishing seasons and areas.* Based upon catch statistics maintained by the National Marine Fisheries Service, the Director shall close any fishery when he has determined that the TALFF for the fishery will be reached. He shall also prohibit further fishing by vessels of a specific nation in a particular fishery when he determines that the national allocation for that fishery will be reached. In either case, notification of such closure shall be made under the procedures specified in § 611.13(c), and subject to the disclaimer in § 611.20(g).

(e) *Gear restrictions.* (1) It shall be unlawful for any foreign fishing vessel to use any trawl net having in any part of the net meshes of dimensions less than 60 millimeters for nets made of manila and measured wet after use, or 55 millimeters for nets made of manila and measured dry before use, or 55 millimeters for nets made of any other material. Meshes are to be measured by a flat, wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into meshes under a pressure or pull of 5 kilograms. The mesh size of a net shall be taken to be the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the lacings, and when measured in the codend of the net beginning at the after end and running parallel to the long axis.

(2) It shall be unlawful for any foreign fishing vessel to use any means or device which would obstruct the meshes of a net or which would otherwise, in effect, diminish the size of the meshes of a net, provided that devices may be attached to the upper side of the codend in such a manner that they will not obstruct the meshes of the codend.

(f) *Reporting, collections, and maintenance of data relating to fishing operations.* It shall be unlawful for any foreign nation or foreign fishing vessel to fail to collect, maintain, or report on a timely basis, accurate data relating to fishing operations as specified below. All submissions required below shall be sent to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, Telex number 940007. The following reports shall be required for all foreign fishing vessels subject to this section:

(1) *Trawl log.* All foreign fishing vessels using trawls shall maintain a trawl log on a set-by-set basis. This log shall have recorded all catches during the permit period. The log shall be maintained aboard the vessel during the duration of the permit period. The log at a minimum shall contain the following information on a set-by-set basis:

- (i) Position in degree and minute of latitude and longitude;
- (ii) Date;
- (iii) Quantity of total catch to the nearest tenth of a metric ton;
- (iv) Composition of the catch by species as a percentage of the haulback;

(v) Disposition of the catch (human consumption, fishmeal, or discarded);

- (vi) Type of gear used;
- (vii) Size of net or number of hooks per line; and
- (viii) Duration of the set to the nearest tenth of an hour.

No specific form for such log shall be required, but all foreign fishing vessels must use the species codes set forth in Appendix I.

(2) *Cumulative catch log.* All foreign fishing vessels shall maintain a cumulative catch log in English on a daily basis. This log shall have recorded on a cumulative basis all catches of all species during the permit period. The log shall be maintained aboard the vessel during the duration of the permit period. The log must contain the following information:

- (i) Name and call sign of the vessel;
- (ii) Permit number;
- (iii) Date;
- (iv) Species by common name and code number;
- (v) Area where caught, e.g., Hake Area 1;

(vi) Daily catch by species to the nearest tenth of a metric ton;

(vii) Disposition of the catch, e.g., human consumption, fishmeal, or discarded; and

(viii) Cumulative total catch for each species.

This log must be in the format illustrated in Appendix II, and must use the species names and species code numbers set forth in Appendix I. No adjustment shall be made in this log to reflect any catch offloaded.

(3) *Weekly report.* A weekly report shall be submitted by the designated official of each foreign nation, stating, on a vessel by vessel basis, the catch of the species specified in Appendix II for the weekly period—Sunday through Saturday. This report must arrive at the address specified above no later than Tuesday of the week following the reporting period. The report should be sent by Telex, but mail is permitted if it will arrive no later than Tuesday. This report shall contain the following information:

- (i) Name of vessel;
- (ii) Permit number;
- (iii) Month and day;
- (iv) Fishing area;
- (v) Number of days actually fished during the seven day period;
- (vi) Species caught during the week, by name and code number (regardless whether retained or discarded); and
- (vii) Weight of catch, by species, in metric tons rounded off to the nearest ton.

This weekly report must be in the format illustrated in Appendix III, which contains instructions for completing the report, the applicable species names and code numbers, and a sample of a telex report.

(4) *Quarterly report.* A quarterly report shall be submitted by the designated official of each foreign nation. Reports must be submitted no later than the time specified below:

TABLE 3

Fishing period	Due date
January, February, March	July 1.
April, May, June	Oct. 1.
July, August, September	Jan. 1.
October, November, December	Apr. 1.

This report shall contain catch and effort statistics for all species and gear types for weekly time periods reflecting 0'30' square areas on a vessel by vessel basis. Reports will be submitted using 0'30' square areas on either Statland 21B Forms, magnetic tape, computer cards, or printouts.

(5) The Secretary may require, from time to time, additional information or reports concerning fishing operations of foreign vessels. Foreign nations will be advised of any such additional information requested and procedures for providing such information.

(g) *Incidental catch.* (1) The taking of any species for which a foreign nation has an allocation is permitted as an incidental catch in any directed fishery provided:

(i) That the quantity taken, whether directed, incidental, or both, does not exceed the allocation of that species provided to that nation under § 611.20;

(ii) That if the allocation of incidental species is taken before the directed fishery allocation for another species is caught, all fishing for the incidental species by the nation involved must stop even if that means that the directed fishery must also stop.

(2) It should be unlawful for any foreign fishing vessel to discard or possess any fish without accurately recording in the log the information specified in paragraph (f) of this section. Foreign fishing vessels may elect to retain or discard species other than prohibited species, but the poundage fees and the computation of the allocation utilization will be based on the total quantity of that species which was caught. Prohibited species, however, must always be returned to the sea after having been logged as required under paragraph (f) of this section.

(3) All fishing as defined in § 611.2(n) (1) by fishing vessels of a foreign nation shall cease when that foreign nation has reached its allocation of "other finfish."

(h) *Fixed gear avoidance.* Foreign fishing vessels are cautioned that they must comply with the requirements of § 611.11, "Gear Conflicts", in addition to the requirements in this paragraph (h).

(1) It shall be unlawful for foreign fishing vessels to fish between the 100-200 fathom curves on the continental shelf within any authorized fishing area designated by this § 611.50.

(2) It shall be unlawful for any foreign fishing vessel to fish in areas of reported fixed gear. The operator of each foreign fishing vessel operating in an authorized fishing area shall not fish within 2 nautical miles of such reported gear areas. Operation in areas of fixed gear locations shall be at the risk of the owner or operator of the foreign vessel for liability purposes resulting from damage

to fixed gear. Locations of fixed gear geographic coordinates (latitude and longitude) are broadcast on the first day of each month by Coast Guard Communications Station Boston (NMFS) on 472 MHz at 1350 G.M.T. in radiotelegraphy. These summary lists are updated each day at 1350 G.M.T., with a broadcast on the same frequency listing changes in fixed fishing gear locations reported by fishermen. Additionally, voice broadcasts in English are made each day by NMF on 2,670 KHZ at 1405 G.M.T., and by Coast Guard Communications Station Portsmouth (NMN) on 2,670 KHZ at 1905 G.M.T., and by the Boston Marine Operator and Norfolk Marine Operator after their scheduled Marine Informa-

tion broadcasts. The voice broadcasts list the location of the fixed gear in Ioran A Coordinates. Both the radiotelegraphy and voice broadcasts are numbered sequentially by month, day, and year. A printed monthly summary of fixed gear information is available by contacting Commander (A01), U.S. Coast Guard, Atlantic Area, Governors Island, New York, N.Y. 10004; telephone: 212-264-0644 or 212-264-0645. All masters of foreign fishing vessels shall comply with the requirements of § 611.11(b).

(3) It shall be unlawful for any vessels(s) involved in a conflict with other gear, fixed or mobile, to fail to comply with the requirements of § 611.11(c). Such incidents should be reported im-

mediately in accordance with instructions contained in section § 611.11(c).

(4) It shall be unlawful for any foreign fishing vessel to dispose of any gear of other vessels retrieved during fishing operations without the approval of an authorized enforcement officer. Reports of such retrieval shall be made immediately in accordance with instructions contained in § 611.11(c).

(i) For the purpose of assisting in compliance with the regulations, a listing of all required records, reports, logs, and data is illustrated in Table III. Persons are cautioned that this is a summary table and that references must be made to the specific sections of the regulations to ensure compliance.

SPECIES CODE

Appendix I

<u>Code</u>	<u>Common English Name</u>	<u>Scientific Name</u>
<u>PRINCIPAL GROUND FISH (EXCEPT FLATFISHES)</u>		
101	Atlantic cod . . . . .	<i>Gadus morhua</i>
102	Haddock . . . . .	<i>Melanogrammus aeglefinus</i>
103	Atlantic redfish . . . . .	<i>Sebastes marinus</i>
104	Silver hake . . . . .	<i>Merluccius bilinearis</i>
105	Red hake . . . . .	<i>Urophycis chuss</i>
106	Pollock (=Saithe). . . . .	<i>Pollachius virens</i>
<u>FLATFISHES</u>		
112	American plaice . . . . .	<i>Hippoglossoides platessoides</i>
114	Witch flounder . . . . .	<i>Glyptocephalus cynoglossus</i>
116	Yellowtail flounder. . . . .	<i>Limanda ferruginea</i>
118	Greenland halibut. . . . .	<i>Reinhardtius hippoglossoides</i>
120	Atlantic halibut . . . . .	<i>Hippoglossus hippoglossus</i>
122	Winter flounder. . . . .	<i>Pseudopleuronectes americanus</i>
124	Summer flounder. . . . .	<i>Paralichthys dentatus</i>
129	Flatfishes (NS). . . . .	<i>Pleuronectiformes</i>
<u>OTHER GOUND FISH</u>		
132	American angler . . . . .	<i>Lophius americanus</i>
136	Atlantic searobins . . . . .	<i>Prionotus sp.</i>
138	Atlantic tomcod . . . . .	<i>Microgadus tomcod</i>
142	Cunner . . . . .	<i>Tautoglabrus adspersus</i>
144	Cusk (=Tusk) . . . . .	<i>Brosme brosme</i>
148	Greenland cod . . . . .	<i>Gadus ogac</i>
152	Ling . . . . .	<i>Molva molva</i>
154	Lumpfish . . . . .	<i>Cyclopterus lumpus</i>
158	Northern kingfish . . . . .	<i>Menticirrhus saxatilis</i>
160	Northern puffer . . . . .	<i>Sphoeroides maculatus</i>
164	Ocean pout . . . . .	<i>Macrozoarces americanus</i>
168	Roundnose grenadier . . . . .	<i>Macrourus ropestris</i>
172	Sandeels (=Sand lances). . . . .	<i>Ammodytes sp.</i>
174	Sculpins . . . . .	<i>Myoxocephalus sp.</i>
176	Scup . . . . .	<i>Stenotomus chrysops</i>
180	Tautog . . . . .	<i>Tautoga onitis</i>
182	Tilefish . . . . .	<i>Lopholatilus chamaeleonticeps</i>
186	White hake . . . . .	<i>Urophycis tenuis</i>
188	Wolffishes (=Catfishes) . . . . .	<i>Anarhichas sp.</i>
199	Groundfish (NS) . . . . .	
<u>PRINCIPAL PELAGIC FISH</u>		
202	Atlantic herring . . . . .	<i>Clupea harengus</i>
204	Atlantic mackerel . . . . .	<i>Scomber scombrus</i>
<u>OTHER PELAGIC FISH</u>		
212	Atlantic butterfish . . . . .	<i>Peprilus triacanthus</i>
216	Atlantic menhaden . . . . .	<i>Brevoortia tyrannus</i>
220	Atlantic saury . . . . .	<i>Scomberesox saurus</i>

## SPECIES CODES (continuation)

224	Bay anchovy . . . . .	<i>Anchoa mitchilli</i>
228	Bluefish . . . . .	<i>Pomatomus saltatrix</i>
232	Crevalle jack . . . . .	<i>Caranx hippos</i>
236	Frigate mackerels . . . . .	<i>Auxis</i> sp.
240	King mackerel . . . . .	<i>Scomberomorus cavalla</i>
244	Spotted spanish mackerel . . . . .	<i>Scomberomorus maculatus</i>
252	Atlantic sailfish . . . . .	<i>Istiopherus platypterus</i>
256	Atlantic white marlin . . . . .	<i>Tetrapturus albidus</i>
260	Blue marlin . . . . .	<i>Makaira nigricans</i>
264	Swordfish . . . . .	<i>Xiphias gladius</i>
272	Albacore . . . . .	<i>Thunnus alalunga</i>
274	Atlantic bonito . . . . .	<i>Sarda sarda</i>
276	Atlantic little tunny . . . . .	<i>Euthynnus alletteratus</i>
278	Bigeye tuna . . . . .	<i>Thunnus obesus</i>
280	Bluefin tuna . . . . .	<i>Thunnus thynnus</i>
282	Skipjack tuna . . . . .	<i>Euthynnus pelamis</i>
284	Yellowfin tuna . . . . .	<i>Thunnus albacares</i>
289	Tunas (NS) . . . . .	<i>Scombridae</i>
299	Pelagic fish (NS) . . . . .	

OTHER FISH

302	Alewife . . . . .	<i>Alosa pseudoharengus</i>
304	Amberjacks . . . . .	<i>Seriola</i> sp.
306	American conger . . . . .	<i>Conger oceanicus</i>
308	American eel . . . . .	<i>Anguilla rostrata</i>
310	America shad . . . . .	<i>Alosa sapidissima</i>
312	Atlantic argentine . . . . .	<i>Argentina silus</i>
314	Atlantic croaker . . . . .	<i>Micropogon undulatus</i>
316	Atlantic needlefish . . . . .	<i>Strongylura marina</i>
318	Atlantic salmon . . . . .	<i>Salmo salar</i>
320	Atlantic silverside . . . . .	<i>Menidia menidia</i>
322	Atlantic thread herring . . . . .	<i>Opisthonema oglinum</i>
330	Black drum . . . . .	<i>Pogonias cromis</i>
332	Black seabass . . . . .	<i>Centropristis striata</i>
334	Blueback herring . . . . .	<i>Alosa aestivalis</i>
340	Capelin . . . . .	<i>Mallotus villosus</i>
342	Chars (NS) . . . . .	<i>Salvelinus</i> sp.
344	Cobia . . . . .	<i>Rachycentron canadum</i>
346	Common pompano . . . . .	<i>Trachinotus carolinus</i>
354	Gizzard shad . . . . .	<i>Dorosoma cepedianum</i>
356	Grunts (NS) . . . . .	<i>Pomadasyidae</i>
360	Hickory shad . . . . .	<i>Alosa mediocris</i>
370	Mulletts . . . . .	<i>Mugilidae</i>
380	North Atlantic harvestfish . . . . .	<i>Peprilus alepidotus</i>
390	Pigfish . . . . .	<i>Orthopristis chrysoptera</i>
300	Rainbow smelt . . . . .	<i>Osmerus mordax</i>
402	Red drum . . . . .	<i>Sciaenops ocellata</i>
404	Red porgy . . . . .	<i>Pagrus sedecim</i>
406	Rough scad . . . . .	<i>Trachurus lathami</i>
410	Sand perch . . . . .	<i>Diplectrum formosum</i>
412	Sheepshead . . . . .	<i>Archosargus probatocephalus</i>
414	Spot . . . . .	<i>Leiostomus xanthurus</i>
416	Spotted weakfish . . . . .	<i>Cynoscion nebulosus</i>

SPECIES CODE (continuation)

418	Squeteague . . . . .	<i>Cynoscion regalis</i>
420	Striped bass . . . . .	<i>Morone saxatilis</i>
422	Sturgeons . . . . .	<i>Acipenseridae</i>
430	Tarpon . . . . .	<i>Megalops atlantica</i>
432	Trouts (NS) . . . . .	<i>Salmo</i> sp.
440	White perch . . . . .	<i>Morone americana</i>
452	Spiny (=Picked) dogfish . . . . .	<i>Squalus acanthias</i>
459	Dogfishes (NS) . . . . .	<i>Squalidae</i>
462	Porbeagle . . . . .	<i>Lamna nasus</i>
469	Sharks (NS) . . . . .	<i>Squaliformes</i>
479	Skates (NS) . . . . .	<i>Raja</i> sp.
499	Finfishes (NS) . . . . .	

INVERTEBRATES

502	Long-finned squid . . . . .	<i>Leligo pealei</i>
504	Short-finned squid . . . . .	<i>Illex illecebrosus</i>
509	Squids (NS) . . . . .	<i>Loliginadae ommastrephidae</i>
512	Atlantic razor clam . . . . .	<i>Esis directus</i>
514	Hard clam . . . . .	<i>Merccuaria mercanaria</i>
516	Ocean quahog . . . . .	<i>Arctica islandica</i>
518	Soft clam . . . . .	<i>Mya arenaria</i>
520	Surf clam . . . . .	<i>Spisula solidissima</i>
529	Clams (NS) . . . . .	
532	Bay scallop . . . . .	<i>Argopecten irradians</i>
534	Calico scallop . . . . .	<i>Argopecten gibbus</i>
536	Sea scallop . . . . .	<i>Placopecten magellanicus</i>
539	Scallops (NS) . . . . .	<i>Pectinidae</i>
542	American cupped oyster . . . . .	<i>Crassostrea virginica</i>
552	Blue mussel . . . . .	<i>Mytilus edulis</i>
559	Mussels (NS) . . . . .	
562	Conchs . . . . .	<i>Strembus and Busycon</i> sp.
564	Periwinkles . . . . .	<i>Littorina</i> sp.
589	Marine molluscs (NS) . . . . .	
602	Atlantic rock crab . . . . .	<i>Cancer irroratus</i>
604	Blue crab . . . . .	<i>Callinectes sapidus</i>
606	Green crab . . . . .	<i>Carcinus maenas</i>
608	Jonah crab . . . . .	<i>Cancer borealis</i>
610	Queen crab . . . . .	<i>Chionoecetes opilio</i>
612	Red crab . . . . .	<i>Geryon quinquesdens</i>
619	Marine crabs (NS) . . . . .	
622	Northern lobster . . . . .	<i>Homarus americanus</i>
632	Northern deepwater prawn . . . . .	<i>Pandalus borealis</i>
639	Pink shrimps (=prawns) . . . . .	<i>Pandalus</i> sp.
649	Marine crustaceans (NS) . . . . .	
652	American sea-urchin . . . . .	<i>Strongylocentrotus</i> sp.
669	Marine worms (NS) . . . . .	<i>Polychaeta</i>
672	Horshoe crab . . . . .	<i>Limulus polyphemus</i>
699	Marine invertebrates (NS) . . . . .	



## Appendix III

## INSTRUCTIONS FOR COMPLETING THE WEEKLY REPORT

1. INSTRUCTIONS FOR COMPLETION OF THE REPORT:A. Vessel Identification Section

NAME The name of the vessel up to 20 characters flush left. Spelling of the name should be the same as that used on the Permit.

PERMIT NO.: The assigned permit number without hyphens.

B. Reporting Circumstances Section

MO./DATE The month and day on which the weekly reporting period ended.

FISHING AREA The authorized fishing area in which the reporting vessel is located on the last day of the weekly reporting period.

FISH DAYS Number of days actually fished during the reporting period.

C. Yield Section

This section of the report contains the total yield in fish during the period of this report. All weights should be round weights to the nearest metric ton. All fish taken during the period should be included, regardless of disposition. It is of utmost importance that the Yield Data cover exactly the one week reporting period.

SPECIES Code number for species taken.  
(see species code Appendix I)

TONS (RW) Enter round weight in metric tons.

2. INSTRUCTIONS FOR SUBMISSION OF THE REPORT:

Report is to be received by the Regional Director no later than Tuesday following the end of the weekly period. Weekly periods will begin on Sunday and end on Saturday. Information required by this report should be forwarded from vessels/fleet masters to a designated official for that flag state in the Northeast United States. This official may be the same as the designated legal representative, fisheries personnel at the

## PROPOSED RULES

appropriate embassy, or any other responsible individual. Information received from afloat will be checked and compiled by the official and forwarded to the Regional Director within the time frame allowed and in the prescribed format. Reports should be Telexed (using the format on the following page). The Telex number is 940007; answerback is LAW ENF CLOS. If no telex/twx is available, reports may be mailed if their timely receipt is assured. Telephone reports will not be accepted.

3. FISHING AREA CODES:

Hake area	HAK (followed by 1 or 2)
Squid area	SQU (followed by 1,2,3,4, or 5)

4. SPECIES CODES:

Silver hake	104
Red hake	105
Atlantic herring	202
Atlantic mackerel	204
Atlantic butterfish	212
Long-finned squid	502
Short-finned squid	504
Other finfish	499

5. AN ILLUSTRATION OF A SAMPLE REPORT IS AS FOLLOWS:

The stern trawler NAVIS, call LTUX permit number LT-78-0001-A entered the Fishery Conservation Zone on Monday, March 6, 1978 began fishing on Tuesday, March 7, 1978 and continued fishing throughout the period. The vessel was fishing in Squid Area 2 for squid. During this period the vessel caught 17 metric tons of squid, (504) 1.3 tons of mackerel, (204) .8 tons of silver hake, (104) and .6 tons of butterfish. (212) The reporting period is March 5-11, 1978.

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NAVIS / LT770001A //
0311 / SQU2 / 05 //
104 / 0001 // 204 / 0001 //
212 / 0001 // 504 / 0017 //

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The report submitted by mail would be as follows:

REPORT ON FOREIGN FISHING VESSEL OPERATIONS

VESSEL GENERATED

VESSEL IDENTIFICATION:

Name

N | A | V | I | S | | | | | | | | | | | | | | | | |

Permit No.

L | T | 7 | 7 | 0 | 0 | 0 | 1 | A

REPORTING CIRCUMSTANCES:

Mo.

Date

Fishing Area

Fish Days

0 | 3 | 1 | 1

S | Q | U | Z

0 | 5

YIELD:

Species

Tons RW

104

0 | 0 | 0 | 1

105

| | | |

202

| | | |

204

0 | 0 | 0 | 1

Species

Tons RW

212

0 | 0 | 0 | 1

502

| | | |

504

| | | |

499

0 | 0 | 1 | 7

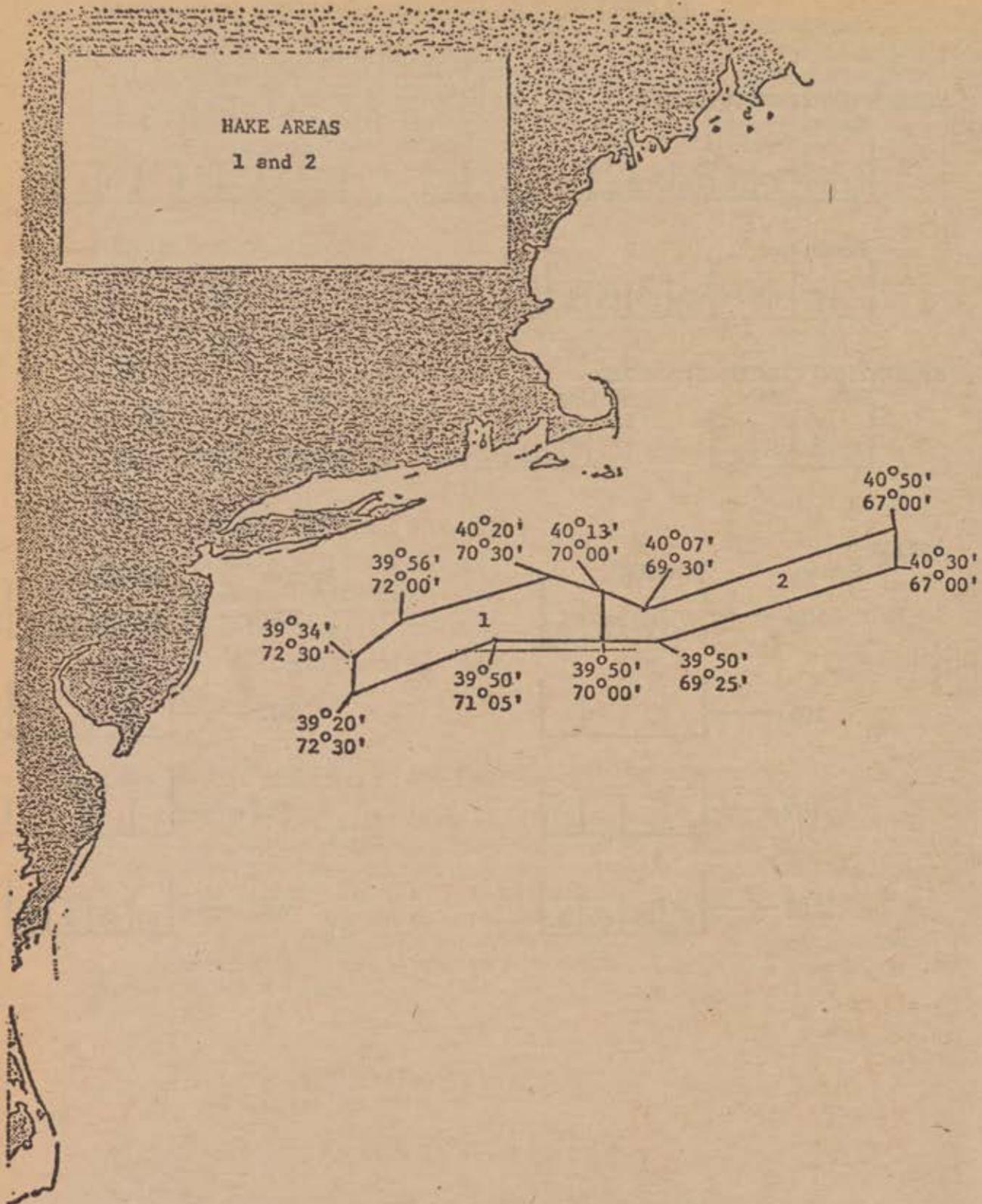


Figure 1

Not to be used for navigational purposes

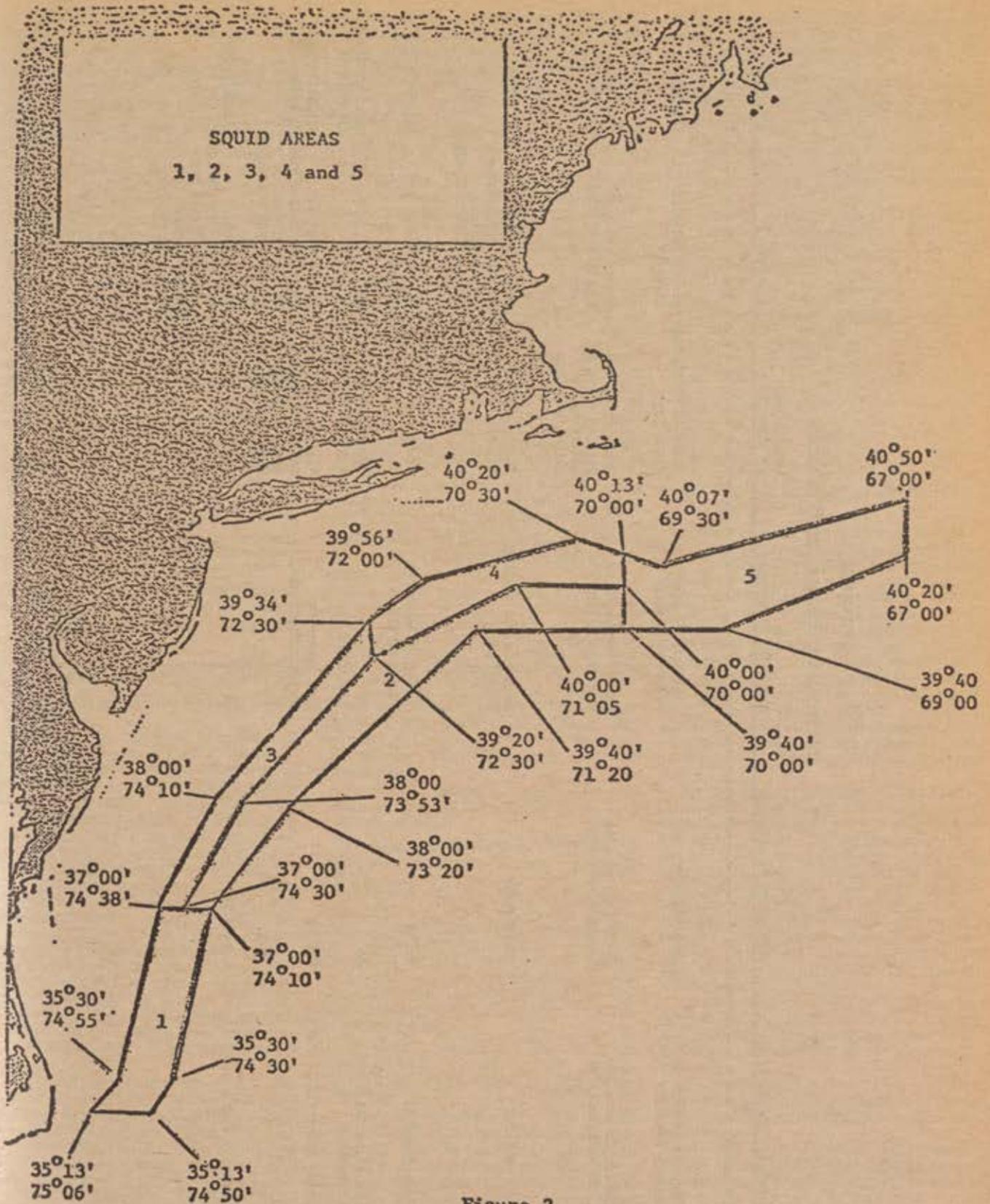


Figure 2

Not to be used for navigational purposes

TABLE II

## SUMMARY TABLE OF REQUIRED REPORTS OR RECORDS

EVENT OF CIRCUMSTANCE	WHEN FILED OR RECORDED	WHO FILES OR RECORDS	WHERE FILED OR RECORDED	REMARKS	REFERENCE
(reserved)					611.4
Transfer of Fish or Fishery Products	Upon transfer	Operators of both Transferring and	Noted in Cumulative Catch Log	Record facts of transfer	611.9(b)
Fishing in Area of Fixed Gear Location	Entry into an area having fixed gear	Master or Person in Charge of vessel	Copy, list, and plot on chart and maintained on vessel's bridge	Record and plot position of fixed gear	611.11(b), 611.50(b)
Gear Conflict	Immediately	Each Involved Fishing Vessel	Coast Guard Atlantic Area	Send message via nearest Coast Guard or commercial station (Table II, 611.4).	611.11(c)
Fishing Effort	Daily	Master or Person in Charge of Vessel	Trawl Log	Maintained aboard Vessel	611.50(f)(1)
Cumulative Catch and Disposition	do	do	Cumulative Catch Log	do	611.50(f)(2) & Appendix II
Weekly Effort/Yield Report	Weekly	Each Country's Designated Official	Regional Director Northeast Region, National Marine Fisheries Service	Includes Effort Yield and Disposition Statistics, Telex transmission preferred	611.50(f)(3) &
Quarterly Catch Effort Report	Quarterly	do	do	Includes Catch and Effort Statistics for each Vessel for Weekly Periods for 0 30' Square Areas	611.50(f)(4)

**Subpart E—Northeast Pacific**  
 § 611.70 Washington, Oregon, California, trawl fishery.

(a) *Purpose.* Regulations of this section shall apply to all species of fish taken in trawl gear as specified below. Unless otherwise defined herein, all other terms used in this subpart will have the meanings ascribed to them in subpart A of these regulations.

(1) The regulatory area for taking of fish is the area seaward of the States of Washington, Oregon, and California over which the United States exercises exclusive fishery management authority.

(b) *Catch quota.* (1) The 1977 maximum catch quotas for foreign fishermen in the Washington, Oregon, and California area are as follows:

Species	Catch quota in metric tons (t)
Pacific hake	89,000.
Pacific Ocean perch and other rockfish.	Incidental catch only, not to exceed 0.8 percent of hake catch.
Flounders	Incidental catch only, not to exceed 0.1 percent of hake catch.
Sablefish	Incidental catch only, not to exceed 0.1 percent of hake catch.
Jack mackerel	4,000—from north of 39° N. only.
Others	Incidental catch only, not to exceed 0.5 percent of hake catch.

(2) Total foreign effort limitations in vessel days on the grounds are as follows:

(i) Landward of 125°40' W. long., and north of 39°00' N.—

Soviet: hake quota÷20 MT/day=vessel days  
 Others: hake quota÷30 MT/day=vessel days

(ii) Seaward of 125°40' W. long.—none at this time.

(3) When the national allocation of any species authorized in the Washington, Oregon, California trawl fishery has been exceeded, trawling by fishermen of that nation in that fishery shall cease for the remainder of the calendar year.

(c) *Open season.* The open season for each country's directed fishing for Pacific hake shall begin at 0801 GMT on June 1, 1977, and terminate at 2400 GMT on October 31, 1977, or sooner if that country's allocation of any species listed in paragraph (b) (1) of this section or the vessel-day limitation listed in paragraph (b) (2) of this section is reached. The open season for each country's directed fishing for jack mackerel, west of 125°40' W. long., shall begin at 0801 GMT on March 1, 1977, and terminate when that country's catch allocation is reached.

(d) *Closed seasons and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of Pacific hake or jack mackerel, or have exceeded the allowed incidental catch of other species or have achieved their assigned effort limitation, notification of such determination shall be given to the appropriate

agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Pacific hake or jack mackerel as of the specified closure date.

(2) Fishing by foreign vessels is prohibited at all times in the following areas:

(i) East of 125°40' W. long., except during those times and in those areas designated for taking Pacific hake.

(ii) 47°30' N. latitude northward to the line connected by the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.,
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°54'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(iii) 39°00' N. lat. southward to the line connected by the following coordinates:

32°35'22.11" N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'51.00" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(iv) "Columbia River Recreational Fishery Sanctuary" is that area bounded by lines projected between, and to the shore from the following coordinates:

47°00' N. lat., 125°20' W. long.;
46°20' W. lat., 124°40' W. long.;
46°00' N. lat., 124°55' W. long.

(v) Klamath River Pot Sanctuary is that area bounded by the following coordinates:

(3) When the total incidental catch (including discards) of Pacific Ocean perch reaches 50 metric tons in the area bounded by 44°53' N. and 45°24' N. latitude, and 124°74' W. and 124°32' W. longitude, the Regional Director may, in his discretion, close this area to all further foreign fishing during any appropriate period.

41°37' N. lat., 124°34' W. long.;
41°37' N. lat., 124°30' W. long.;
41°20' N. lat., 124°28' W. long.;
41°20' N. lat., 124°32' W. long.;
41°37' N. lat., 124°34' W. long.

(e) *Gear restrictions.* (1) No foreign vessel fishing for Pacific hake or jack mackerel, shall use any gear other than a pelagic trawl with a minimum mesh size of 3.94 inches (100 mm) stretched measure. No liners will be permitted in the codend of the trawl.

(2) It shall be unlawful for any foreign fishing vessel to attach any protective device to pelagic fishing gear or to employ any means that would, in effect,

make it possible to fish for demersal species or any device or method which would have the effect of diminishing the size of the meshes.

(f) *Statistical reporting.* The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington, U.S.A. 98109.

(1) *Daily Fishing Log.* The basis for the reports furnished below shall be a daily fishing log which contains the following information:

- (i) Date.
- (ii) Time of set and haul of each tow.
- (iii) Starting and Ending position of each tow (lat. and long.).
- (iv) Bottom depth.
- (v) Gear depth.
- (vi) Catch.
  - (A) Hake.
  - (B) Rockfish.
  - (C) Sablefish.
  - (D) Flatfish.
  - (E) Other.
- (1) Halibut.
  - (2) Salmon (number of fish only).
  - (3) Other.

(2) *Annual.* Each country whose fishing vessels operate in the area shall report by May 30 of the following year, annual catch and effort statistics, as follows: *Effort* in hours trawled, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by ½° (lat.) x 1° (long.) statistical area, by the following species groupings: Pacific hake, jack mackerel, Pacific ocean perch, other rockfishes, sablefish, dover sole, other flounders, anchovies, herring, any other species taken in excess of 1,000 metric tons, other fishes.

(3) *Monthly.* In addition to the annual statistical report in (1) above, each country shall report by the end of the following month, provisional monthly fishery information as follows: *Effort* in vessel days on the grounds (by vessel class and gear type); and *Catch* in metric tons of Pacific hake, jack mackerel, rockfishes, flounders, and others for each of the following areas: Point Conception, Monterey, Eureka, Columbia, and Vancouver (including that portion off Canada).

(g) *Restrictions.* (1) There shall be no fishing for shrimp or scallops or fishing for or retention of salmon, steelhead, halibut, or Continental Shelf Fishery resources.

(4) There shall be no foreign fishing within 12 miles of the baseline used to measure the Territorial Sea unless authorized.

(5) The number of foreign vessels fishing in the Pacific Coast fishery management area shall not exceed 35 Soviet and 6 Polish vessels at any time.

**Subpart F—Western Pacific Ocean**

§ 611.80 Seamount groundfish fishery.

(a) *Purpose.* Regulations of this section shall apply to pelagic armorheads

(*Pentaceros richardsoni*) and Alfonsins (*Beryx spendens*) and other groundfish resources and shall also apply to the following species of precious corals taken incidentally to the direct fishing for pelagic armorheads red or pink corals (*Acanella spp.*) and bamboo corals (*Keratiopsis spp.*), during the period January 1, 1978 to December 31, 1978, in that portion of the Pacific Ocean over which the United States exercises exclusive fishery management authority. For the purposes of this section, the term other groundfish resources comprises all other species of finfish caught incidental to directed fishing for pelagic armorheads and alfonsins.

(b) *Catch and effort limitation.* (1) "The allowable foreign catch in 1978 for pelagic armorhead, alfonsin, and other groundfish resources in the portions of the fishery conservation zone west of the 180° meridian and north of 28° N latitude shall not exceed 2,000 metric tons (t) of any single species or any combination of species of groundfish."

(2) The 1977 vessel day limit for foreign fishing vessels fishing for seamount groundfish shall not exceed 50 vessel days each of trawling and bottom longlining.

(3) "It shall be unlawful for any foreign fishing vessel to take and retain, or to possess (except for the time necessary to record the data specified in paragraph (1) of this section and to dispose of them) any Continental Shelf fishery, resources, including precious corals designated in paragraph (a) of this section, within the fishery conservation zone, in accordance with § 611.13(a) of these regulations.

(c) *Open season and areas.* The open season for the seamount groundfish fishery by foreign fishing vessels in the area west of the 180° meridian shall begin at 0801 GMT on January 1, 1978, and terminate at a time and date to be announced under paragraph (d).

(d) *Closed season and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for seamount groundfish in the area west of 180° meridian and north of 28° latitude. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of seamount groundfish, or have used their allocation of vessel days, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for seamount groundfish as of the specified closure date.

(2) It shall be unlawful for foreign vessels to fish for seamount groundfish resources in the fishery conservation zone in the Pacific Ocean except in that portion of the fishery conservation zone west of the 180° meridian and north of 28° N latitude.

(e) *Gear Restrictions.* No gear other than trawl or bottom longlining gear shall be used.

(f) *Statistical reporting.* (1) The master or operator of every foreign vessel

fishing for seamount groundfish in the U.S. Fishery Conservation Zone in the Eastern Pacific shall maintain an accurate logbook of fishing operations. All logbook data shall be submitted to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731, or the National Marine Fisheries Service observer on board the vessel upon request, unless otherwise provided in this section.

(2) The logbook for trawling operations shall contain data for each haul as follows:

(i) Catch, by individual species, to the nearest one-tenth (0.1) t;

(ii) The approximate weight (kilograms), by genus, of the incidental catch of the precious corals designated in paragraph (a) of this section;

(iii) The time at the beginning of the haul and the total duration of the haul to the nearest five (5) minutes;

(iv) The location at the midpoint of each haul to the nearest one-tenth (0.1) minute of latitude and longitude;

(v) The average depth of the seabottom to the nearest meter;

(vi) The average fishing depth of the footrope to the nearest meter;

(vii) The average fishing speed of the vessel (towing speed) to the nearest one-tenth (0.1) knot;

(viii) The date;

(ix) The vessel permit number;

(x) The codend mesh size to the nearest millimeter;

(xi) The length of the footrope to the nearest one-tenth (0.1) meter and average distance between footrope and headrope to the nearest one-tenth (0.1) meter.

(3) The logbook for bottom longlining operations shall contain the following data for each fishing day:

(i) Midday location of fishing, to the nearest one-tenth (0.1) minute of latitude and longitude;

(ii) Number of hooks set and average soak time;

(iii) Number of fish caught, by species, for pelagic armorhead, alfonsin, and other groundfish species;

(iv) Average depth of hooks set, in meters.

(4) *Annual.* Each nation whose fishermen fish in the area set forth in Part 3.0 above shall report by February 28 of the following year, annual catch and effort statistics, as follows: Catch in metric tons by gear type by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude, by the following species groupings: pelagic armorhead, alfonsin, other groundfish; Catch in kilograms of precious-corals taken incidental to fishing operations by month by area to the nearest one-tenth degree (0.1°) latitude and longitude square, by the following species groupings: pink coral, gold coral, bamboo coral, other corals; Effort in hours trawled by month by area to the nearest one-half degree (0.5°) latitude and by one degree (1°) longitude; and Effort in average number of hooks soaked per 24-hour period by month by area to the nearest one-half degree (0.5°) lati-

tude and by one degree (1°) longitude. The annual report shall be submitted to the Regional Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, Calif. 90731.

(5) *14-day periods.* Every country will report within 5 days following each 14-day fishing period, provisional fishery information as follows: Catch in metric tons, of pelagic armorhead, alfonsin, other groundfish, by gear type; Incidental catch, in kilograms of pink coral, gold coral, bamboo coral, and other corals; and Effort in hours trawled and/or average number of hooks soaked per 24-hour period. The provisional report(s) shall be given to the National Marine Fisheries Service observer on board the vessel, except that if no observer is on board the vessel, the report(s) shall be made to the observer on board the nearest vessel of the country involved, unless otherwise specified at the time of entry into the fishing grounds.

#### Subpart G—North Pacific Ocean and Bering Sea

##### § 611.90 General provisions.

(a) *Purpose.* Regulations of this subpart shall apply to foreign fisheries in the North Pacific Ocean and the Bering Sea for those fisheries specified in the following sections. Unless otherwise defined herein, all other terms used in this Subpart will have the meanings ascribed to them in Subpart A of these regulations.

(b) *Open Season.* Unless otherwise specified in the following sections, the open season for fishing by foreign vessels shall begin at 0801 GMT on January 1, 1978, and terminate at a time and date to be determined under specific provisions where applicable of each of the following sections.

(c) *Closed season and areas.* (1) The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of any species specified in the following sections, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for that species as of the specified closure date.

(d) *Loading zones.* Loading and other support operations are permitted by foreign vessels during 1978 seaward of three nautical miles from the baseline from which the United States territorial sea is measured:

(1) Near Forrester Island, Alaska, in the waters bounded on the north by 54°-54' North Latitude, on the east by 133°16' West Longitude, and on the south 54°44' N. lat. from January 1, 1978, to December 31, 1978, inclusive.

(2) On the east side of Kayak Island, Alaska, in the waters between 58°48' North Latitude and 59°56' North Latitude west of 143°53' West Longitude and

on the west side of Kayak Island in the waters between 59°52' North Latitude and 60°07' North Latitude east of 145° W. long., from January 1, 1978, to December 31, 1978, inclusive.

(3) North of Tonki Cape on Afognak Island, Alaska, in the waters bounded on the north by 58°35' North Latitude, on the south by 58°25' North Latitude, on the west by 152°02' West Longitude and on the east by 151°52' W. long., from January 1, 1978, to December 31, 1978, inclusive.

(4) North and west of Sanak Island, Alaska, in the waters bounded on the north by 54°36' North Latitude, on the south by 54°26' North Latitude, on the west by 163°40' W. long., from January 1, 1978, to December 31, 1978, inclusive.

(5) On the south side of Unalaska Island, Alaska, in the waters between 167°-18' West Longitude and 167°40' West Longitude, from January 1, 1978, to October 14, 1978, inclusive.

(6) On the north side of Unalaska Island, Alaska, in the waters between 167°15' West Longitude and 167°35' West Longitude, from January 1, 1978, to October 14, 1978, inclusive.

(7) On the south side of Umnak Island, Alaska, in the waters between 168°15' West Longitude and 168°30' West Longitude, from October 15, 1978, to December 31, 1978, inclusive.

(8) On the north side of Umnak Island, Alaska, in the waters between 168°25' West Longitude and 168°0' West Longitude and between 168°50' West Longitude and 169° West Longitude, from October 15, 1978, to December 31, 1978, inclusive.

(9) Off St. George Island of the Pribilof Islands, Alaska, from January 1, 1978, to April 30, 1978, and November 1, 1978 to December 31, 1978 inclusive.

(10) On the north side of St. Matthew Island, Alaska, in the waters between 172°29' West Longitude, and 172°46' W. longitude, and on the south side of St. Matthew Island, in the waters between 172°17' West Longitude, and 172°35' West Longitude, and in the waters between 172°54' West Longitude, and 173°04' West Longitude from January 1, 1978 to December 31, 1978, inclusive.

(e) *Statistical reporting.* The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A. 99801.

(f) *General restrictions.* (1) There shall be no fishing for or retention of shrimp, scallops, salmon, steelhead, halibut, or Continental Shelf Fishery resources.

(2) There shall be no foreign fishing within 12 miles of the baseline used to measure the Territorial Sea, except as otherwise provided in this subpart.

#### § 611.91 Crab fishery.

(a) Regulations of this section shall apply to: Red king crab (*Paralithodes camtschatica*), Blue king crab (*Paralithodes platypus*), brown king crab

(*Lithodes acquispina*), snow (Tanner) crabs (*Chionoecetes bairdi* and *C. opilio*).

(b) *Catch quotas.* No more than 12,500 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction.

(c) *Closed Seasons and Areas.* It shall be unlawful for any foreign fishing vessel to fish for crabs at any time in the Bering Sea south and east of straight line drawn between the following coordinates:

53°00' N. lat. 169°30' E. long.; 56°00' N. lat. 173°00' E. long.; 56°00' N. lat. 173°00' W. long.; 58°00' N. lat. 173°00' W. long.; 58°00' N. lat. 164°00' W. long.; North along 164°00' W. long. to a distance of 12 nautical miles from the baseline used to measure the U.S. territorial sea; throughout the Northeastern Pacific Ocean; and within 12 nautical miles of the baseline used to measure the U.S. territorial sea.

(d) *Gear restrictions.* It shall be unlawful for any foreign fishing vessels fishing in the unauthorized area for crabs to use gear other than pots. A pot is a portable structure designed and constructed to capture and retain crabs alive in the water.

(e) *Statistical Reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked Catch in metric tons and number of crabs. Each to be supplied by vessel class, by 10-day period, by ½° (lat.) by 1° (long.) statistical area, by the following species: Snow (Tanner) crab (*Chionoecetes bairdi* and *C. opilio*), and any other crab species.

(2) 10-day Periods. Each country will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: Effort in total pot lifts; and Catch in metric tons and number of crabs of *C. opilio* and *C. bairdi* separated by the area described in paragraph (b) (2) of this section and by the area outside that described in paragraph (b) (2) of this section.

(f) *Restrictions.* No master or any other person in charge of any foreign vessel engaged in fishing for crabs under this subpart shall:

(1) Conduct a directed fishery for, or retain any species of crab other than snow (tanner) crabs;

(2) Process crabs except on designated factory ships or fishing vessels specifically authorized by permit to process crabs in the crab fishery.

(3) Retain and process female or soft shell crabs; any crabs not retained must be discarded immediately after the pots are taken aboard in a manner that will minimize mortality.

(4) Take crabs aboard factory ships or off load or transfer crabs from any fishing vessel specifically authorized by permit to engage in the crab fishery in a manner in which the observer can not verify the total weight of crabs taken aboard.

(5) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, fail to report daily to the Regional Director (i) its position, (ii) its daily catch, and (iii) its cumulative catch.

(6) In the case of a vessel specifically authorized by permit to engage in the crab fishery, other than a factory ship, to depart from the fishing area until its catch of crabs on board is checked by an observer.

#### § 611.92 Gulf of Alaska Trawl Fishery.

(a) *Purpose.* Regulations of this section shall apply to all species of fish taken in trawl gear in the Gulf of Alaska which includes that portion of the North Pacific Ocean, exclusive of the Bering Sea, between 132°40' W. long. and 170° W. longitude. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in subpart A of these regulations.

(b) *Catch quota.* The 1978 maximum catch quotas for foreign fishermen in the Gulf of Alaska are as follows:

Species:	Catch quota (metric tons)
Pollock	151,100
Pacific ocean perch	23,900
Other rockfishes	5,600
Flounders	24,300
Sablefish	(1)
Atka mackerel	24,800
Pacific cod	25,100
Others (combination)	14,000

1 Incidental trawl catch not to exceed 1.5 percent.

(c) *Open Area.* The open area for foreign fishing, which includes support operations, in the western Gulf of Alaska beyond 3 miles from the baseline used to measure the Territorial Sea is between 169° W. long., and 170° W. long.

(d) *Closed Areas.* (1) Six "Kodiak Gear Areas", bounded respectively by straight lines connecting in each of the following groups the coordinates in the order listed, shall be closed to foreign fishing from January 1, 1978 to May 31, 1978, and from August 10, 1978 to December 31, 1978 inclusive.

(i) 57°15' N. Lat.-154°51' W. long.; 50°57' N. lat.-154°34' W. long.; 56°21' N. lat.-155°40' W. long.; 56°26' N. lat. 155°55' W. long.; 57°15' N. lat. 154°51' W. long.

(ii) 56°27' N. lat.-154°06' W. long.; 55°46' N. lat.-155°27' W. long.; 55°40' N. lat.-155°17' W. long.; 55°48' N. lat.-155°00' W. long.; 55°54' N. lat.-154°55' W. long.; 56°03' N. lat.-154°36' W. long.; 56°03' N. lat.-153°45' W. long.; 56°30' N. lat.-153°45' W. long.; 50°30' N. lat.-153°49' W. long.; 56°27' N. lat.-154°06' W. long.

(iii) 56°30' N. lat.-153°49' W. long.; 56°30' N. lat.-153°00' W. long.; 56°44' U. lat.-153° W. long.; 56°57' N. lat.-153°15' W. long.; 56°45' N. lat.-153°45' W. long.; 56°30' N. lat.-153°49' W. long.

(iv) 57°05' N. lat.-152°52' W. long.; 56°54' N. lat.-152° W. long.; 56°46' N. lat.-152°37' W. long.; 56°46' N. lat.-152°20' W. long.; 57°19' N. lat.-152°20' W. long.; 57°05' N. lat.-152°52' W. long.

(v) 57°35' N. lat.-152°03' W. long.; 57°11' N. lat.-151°14' W. long.; 57°19' N.

lat.-150°00' W. long.; 57°48' N. lat.-152°00' W. long.; 57°35' N. lat.-152°03' W. long.

(vi) 58°00' N. lat.-152°00' N. lat.-150°00' W. long.; 58°12' N. lat.-150°00' N. long.; 58°19' N. lat.-151°29' W. long.; 58°00' N. lat.-152°00' W. long.

(2) 58°30' N. lat. to 59°30' N. lat. between 147°40' W. long. and 150°20' W. long.; 57°40' N. lat. to 58°05' N. lat. between 148°50' W. long. and 150°30' W. long.; 55°30' N. lat. to 56°25' N. lat. between 155°45' W. long. and 156°30' W. long. closed to foreign trawling from 5 days prior to 5 days after, the first of the several openings of the U.S. halibut setline fishery in 1978.

(3) 163°04' W. long. to 166° W. long. closed to foreign fishing January 1, 1978 to December 31, 1978, inclusive.

(4) 147° W. long. to 157° W. long. closed to foreign trawling from February 16, 1978 to May 15, 1978 inclusive.

(5) 140° W. long. to 147° W. long. closed to foreign trawling from January 1, 1978 to February 15, 1978, December 1, 1978 to December 31, 1978 inclusive.

(6) When the national allocation of any species authorized in the Gulf of Alaska trawl fishery has been exceeded, trawling by fishermen of that nation in that fishery within the Gulf of Alaska shall cease for the remainder of the calendar year.

(e) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics as follows: *Effort* in hours trawled, by vessel class, by gear type, by month, by  $\frac{1}{2}^\circ$  (lat.)  $\times$   $1^\circ$  (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by  $\frac{1}{2}^\circ$  (lat.)  $\times$   $1^\circ$  (long.) statistical area, by the following species groupings: Rock sole; Flathead sole; Arrowtooth flounder; Other flounders; Pacific ocean perch; Other rockfish; Pacific cod; Sablefish (blackcod); Walleye (Alaska) pollock; Atka mackerel; any other species taken in excess of 1,000 mt.; and other fishes.

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each nation will report by the end of the following month, provisional fishery information for each month as follows: *Effort* in vessel-days on the grounds by vessel-class and gear-type; and *Catch* in metric tons by species of flounders, rockfishes, Pacific cod, pollock, sablefish (black cod), Atka mackerel, herring and others.

#### § 611.93 Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery.

(a) Regulations of this section shall apply to all species of fish taken with trawl gear, longline or gillnet in the area which includes that portion seaward of the Territorial Sea in the Bering Sea and Aleutian Islands over which the United States exercises exclusive fishery management authority.

(b) *Catch quotas.* The 1978 catch quotas for foreign fishermen are as follows:

Species	Catch quota (metric tons and area)
Pollock	950,000.
Yellowfin Sole	106,000.
Other Flounders	139,000.
Pacific Ocean Perch	6,500 (areas I, III, III combined). 15,000 (area IV).
Sablefish	5,000 (areas I, II, III combined). <sup>1</sup> 500 (area IV). <sup>1</sup>
Pacific Cod	58,000.
Herring	8,670.
Squid	10,000.
Atka Mackerel	24,800.
Others	53,600 (areas I, II, III combined). 29,200 (area IV).

<sup>1</sup>The sablefish quotas are for trawl, set line and trap gear collectively.

(c) *Open seasons and areas.* The open seasons for foreign fishing, which includes support operations, in the Aleutian Islands area beyond 3 miles from the baseline used to measure the Territorial Sea are as follows: In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° west longitude, trawl fishing from June 1, 1978 to November 30, 1978, inclusive, and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(ii) Between 170° and 172° west longitude, trawl and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(iii) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(iv) West of 176° west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive, and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

In waters off the Pacific coast of the Aleutian Islands:

(v) Between 170° and 172° west longitude, trawl and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(vi) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(vii) Between 176° and 178°30' west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive, and trawl fishing from July 1, 1978, to October 31, 1978, inclusive.

(viii) West of 178°30' west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

(d) *Closed Seasons and Areas.* Trawling by foreign vessels is prohibited in the following areas and during the time periods shown below:

(1) There shall be no trawling at any time in the Bristol Bay "Pot Sanctuary" which is the area enclosed by straight lines from Cape Sarichef to 55°16' N. lat. 166°10' W. long., to 56°20' N. lat. 163°00' W. long., to 57°10' N. lat. 163°

00' W. long., to 58°10' N. lat. 160°00' W. long., then due south along 160°00' W. long., to the Alaska Peninsula.

(2) There shall be no trawling from January 1, 1978, to May 31, 1978, and December 1, 1978 to December 31, 1978, in the following International Pacific Halibut Commission (IPHC) Conservation Areas:

(i) Area B.  
(ii) Area E east of 166°00' W. long.—south of 56°30' N. lat.

(iii) Area E west of 166°00' W. long.—south of 56°30' N. lat.

(iv) Area A—south of 55°30' lat.

(3) There shall be no trawling from January 1, 1978, to May 31, 1978 and from December 1 to December 31, 1978, in the area bounded by straight lines connecting the coordinates in the order listed—56°18' N. lat.—170°24' W. long., 56°20' N. lat.—169°03' W. long., 56°12' N. lat.—168°46' W. long., 55°56' N. lat.—169°10' W. long., 55°56' N. lat.—170°24' W. long., 56°18' N. lat.—170°24' W. long.

(4) When the national allocation of any species authorized in the Bering Sea and Aleutian Islands trawl and herring gillnet fishery has been exceeded, trawling or gillnetting by fishermen of that nation in that fishery shall cease for the remainder of the calendar year.

(e) *Gear restrictions.* Gear restrictions for foreign fishing in the regulatory area are described in paragraph (c) of this section during the open season for specific areas.

(f) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year—annual catch and effort statistics as follows:

*Effort* in hours trawled, by vessel class, by gear type, by month, by  $\frac{1}{2}^\circ$  (lat.)  $\times$   $1^\circ$  (long.) statistical area;

*Catch* in metric tons, by vessel class, by gear type, by month, by  $\frac{1}{2}^\circ$  (lat.)  $\times$   $1^\circ$  (long.) statistical area, by the following species groupings: yellowfin sole; rock sole; flathead sole; arrowtooth flounder; greenland turbot; other flounders; Pacific ocean perch; Pacific cod; sablefish (blackcod); walleye (Alaska) pollock; Atka mackerel; Pacific herring; any other species taken in excess of 1,000 mt; and "other fishes."

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each country will report by the end of the following month, provisional fishery information for each month as follows:

*Effort* in vessel days on the grounds, by vessel class, and gear type; and *Catch* in metric tons of yellowfin sole, other flounders, rockfishes, Pacific cod, pollock, sablefish (blackcod), Atka mackerel, herring, and others.

(g) *General restrictions.* (1) There shall be no trawling or gillnetting within 12 miles of the baseline used to measure the Territorial Sea, except in the Aleutian Islands as described in paragraph (c) of this section.

(2) There shall be no fishing for herring by foreign fishing vessels east of 168°00' W. long.

### § 611.94 Sablefish (Blackcod).

(a) Regulations of this section shall apply to sablefish, blackcod, (*Anoplopoma fimbria*) taken by foreign fishing vessels in the North Pacific Ocean and the Bering Sea over which the United States exercises exclusive fishery management authority. Unless otherwise defined herein, all other terms used in this section will have the meanings ascribed to them in Subpart A of these regulations.

(b) *Area quotas.* (1) Bering Sea (north of 54°30' N. lat. and west of 170° W. long.). The 1978 surplus sablefish available for foreign fisheries is 5,000 metric tons to be taken by all gears combined.

(2) Aleutian Region. The 1978 surplus sablefish available for foreign fisheries is 1,500 metric tons to be taken by all gears combined.

(3) Gulf of Alaska (includes that portion of North Pacific Ocean exclusive of the Bering Sea, between 132°40' and 170° W. long.). The 1978 surplus sablefish in the regulatory area available for foreign fisheries is 18,400 metric tons.

(i) Up to 4,000 metric tons of the surplus may be taken as an incidental catch by trawl gear.

(ii) The balance of the surplus 18,400 less the incidental trawl catch may be taken by longline and trap gear.

(iii) No more than 2,800 metric tons of the surplus can be taken by all gear combined in the INPFC Statistical Area "Southeastern Alaska".

(4) Washington, Oregon, and California. No directed foreign fishery for sablefish permitted.

(5) The sablefish fishery in each area will terminate when the quota or effort limitation for that area is reached.

(c) *Open season.* (1) The open season for sablefish fishing by foreign fishing vessels in the Gulf of Alaska, Bering Sea and Aleutian Islands shall begin at 0801 GMT hours on January 1, 1978 and terminate at a time and date to be determined and announced under paragraph (d) of this section.

(2) The open seasons for foreign fishing which includes support operations in the Aleutian Islands area beyond 3 miles from the baseline used to measure the Territorial Sea are as follows: In the waters off the Bering Sea coast of the Aleutian Islands:

(i) Between 169° and 170° west longitude, trawl fishing from June 1, 1978, to November 30, 1978, inclusive, and long-

line fishing from January 1, 1978, to December 31, 1978, inclusive.

(ii) Between 170° and 172° west longitude, trawling and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(iii) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(iv) West of 176° west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978, to December 31, 1978, inclusive. In the waters off the Pacific coast of the Aleutian Islands.

(v) Between 170° and 172° west longitude, trawl and longline fishing from January 1, 1978, to December 31, 1978, inclusive.

(vi) Between 172° and 176° west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive.

(vii) Between 176° and 178°30' west longitude, longline fishing from April 1, 1978, to October 31, 1978, inclusive and trawl fishing from July 1, 1978, to October 31, 1978, inclusive.

(viii) West of 178°30' west longitude, trawl fishing from May 1, 1978, to December 31, 1978, inclusive and longline fishing from January 1, 1978 to December 31, 1978, inclusive.

In the Western Gulf of Alaska:  
(ix) Between 169° and 170° W. long., trawl, longline, and trap net fishing from January 1, 1978, to December 31, 1978, inclusive.

(d) *Closed season and areas.* It shall be unlawful for any foreign fishing vessel to fish for sablefish at any time with longline or trap gear shoreward of the 500 meter (273.3 fathoms) depth contour in the Gulf of Alaska.

(e) *Gear restrictions.* Foreign fishing vessels are authorized to fish for sablefish with the type of gear used during 1976.

(f) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each nation whose fishermen operate in the area shall report by May 30 of the following year annual catch and effort statistics as follows: *Effort* in hours trawled, number of longline units, number of traps, duration of soaking time for longlines and traps and number of days fishing, by vessel class, by gear type, by month, by  $\frac{1}{2}^{\circ}$  (lat.) x  $1^{\circ}$  (long.) statistical area; *Catch* in metric tons, by vessel class, by gear type, by month, by  $\frac{1}{2}^{\circ}$  (lat.) x  $1^{\circ}$  (long.) statistical area. The characteristic features

of gear and vessels are also to be reported.

(2) Monthly. In addition to the annual statistical report in subparagraph (1) of this paragraph, each nation will report to the Regional NMPS Director by the end of the following month, provisional monthly fishery information as follows: *Catch* in metric tons of sablefish and *Effort* in vessel-days by vessel type and INPFC large statistical areas in the Gulf of Alaska, the Bering Sea and the Aleutian Region areas.

### § 611.95 Snails.

(a) Regulations in this section shall apply to snails of the genus *Neptunea*, *Fusitriton*, *Buccinum*, *Beringius*, *Voluropsius*, *Clinopegma*, *Plicifusus*, and *Pyrulofusus*, taken by foreign fishing vessels in that portion of the Bering Sea over which the United States exercise exclusive fishery management authority.

(b) *Catch quota.* The 1977 catch quota for all species of snails combined in the Bering Sea shall not exceed 3,000 metric tons of edible meat.

(c) *Area, gear, and general restrictions.*

(1) It shall be unlawful for any foreign fishing vessel to fish for snails east of 164° W. long., or within 12 miles of the baseline used to measure the Territorial Sea.

(2) It shall be unlawful for any foreign fishing vessel fishing for snails to use gear other than pots.

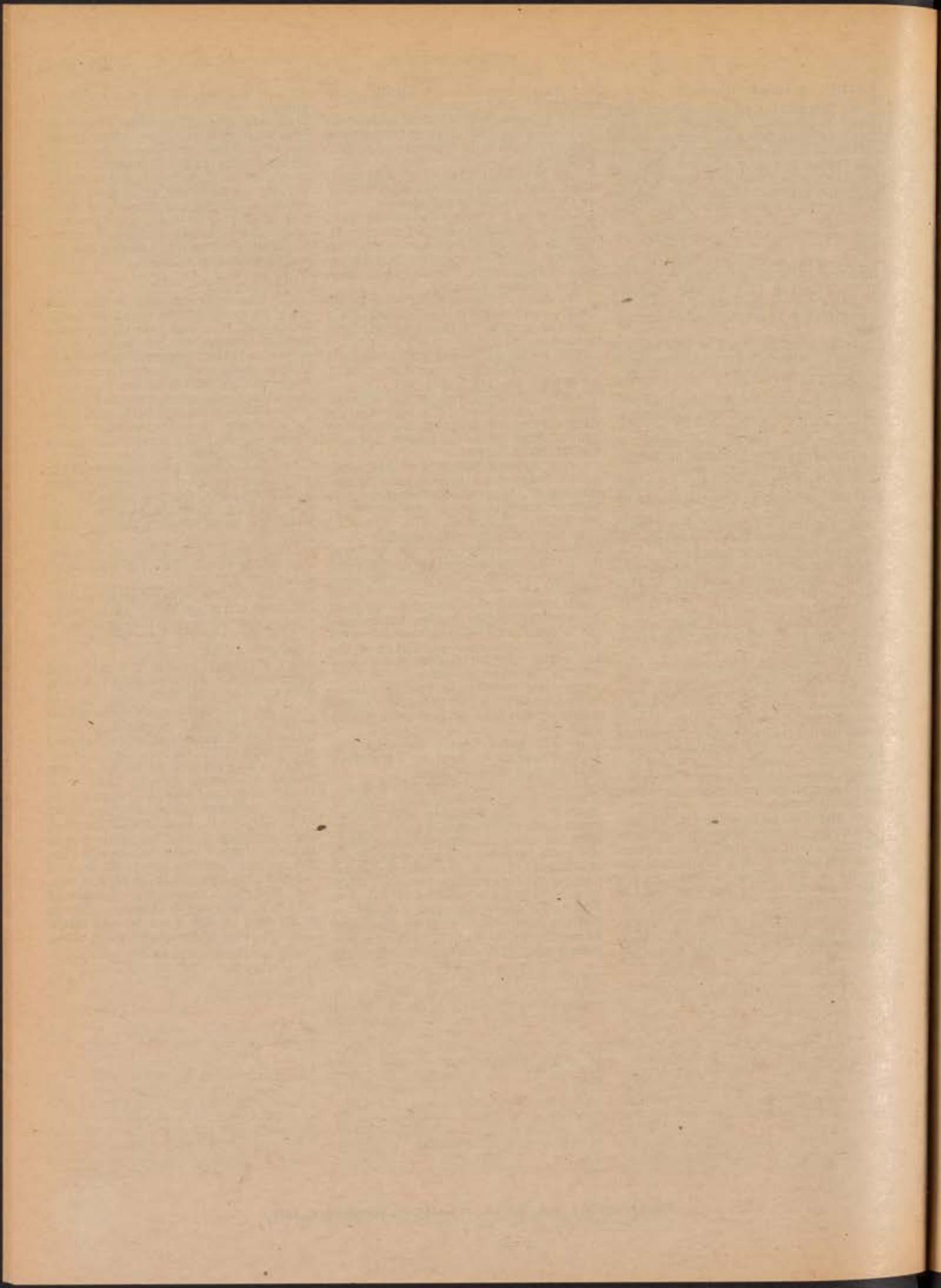
(3) There shall be no retention of halibut or crab, if these species are taken incidental to snail fishing, they must be returned immediately to the sea with minimum injury.

(d) *Statistical reports.* The catch and effort statistics required by § 611.90(d) shall be reported as follows:

(1) Annual. Each country whose fishermen take snails in the area shall report by May 30 of the following year, annual catch and effort statistics as follows: *Effort* in number pots hauled, hours pots soaked by month, by  $\frac{1}{2}^{\circ}$  (lat.) x  $1^{\circ}$  (long.) statistical area; *Catch* in metric tons of recovered edible meat, by month, by  $\frac{1}{2}^{\circ}$  (lat.) x  $1^{\circ}$  (long.) statistical area.

(2) Monthly. In addition to the annual statistical report, each nation will submit monthly reports within 30 days of the end of the month in which the fishing occurred, containing provisional fishery information as follows: *Effort* in vessel days on the grounds; and *Catch* in metric tons of recovered edible meat.

[FR Doc. 77-26218 Filed 9-8-77; 8:45 am]



**Register  
Federal Order**

**FRIDAY, SEPTEMBER 9, 1977**

**PART IX**



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**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 determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area

indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

## MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the 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.

Alaska:		
AK77-5052	-----	May 20, 1977.
Arkansas:		
AR77-4114	-----	June 10, 1977.
Arizona:		
AZ77-5058; AZ77-5059;		June 17, 1977.
AZ77-5060.		
Delaware:		
DE77-3042	-----	Apr. 1, 1977.
Maryland:		
MD77-3077	-----	June 3, 1977.
Michigan:		
MI77-2051	-----	May 6, 1977.
MI77-2052	-----	May 13, 1977.
Minnesota:		
MN77-2048	-----	May 20, 1977.
Nevada:		
NV77-5061	-----	June 17, 1977.
NV77-5072	-----	July 8, 1977.
New Jersey:		
NJ77-3079	-----	June 17, 1977.
Ohio:		
OH77-2108	-----	July 8, 1977.
Oklahoma:		
OK77-4163; OK77-4164;		July 15, 1977.
OK77-4165; OK77-4166;		
OK77-4167.		
OK77-4168; OK77-4174	----	July 29, 1977.
Pennsylvania:		
PA77-3016	-----	Aug. 28, 1977.
Tennessee:		
TN77-1080	-----	July 22, 1977.
Utah:		
UT77-5075	-----	Aug. 5, 1977.
Washington:		
WA77-5076	-----	Aug. 19, 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.

Arkansas:		
AR77-4217 (AR77-4106)	--	May 27, 1977.
Maryland:		
MD77-3119 (MD76-3151)	-	Mar. 19, 1976.
New Mexico:		
NM77-4218 (NM77-4116)	-	June 17, 1977.
New York:		
NY77-3116 (NY77-3001)	--	Apr. 1, 1977.
NY77-3120 (NY77-3084)	--	July 1, 1977.
Pennsylvania:		
PA77-3121 (PA77-3031)	--	Apr. 8, 1977.
PA77-3122 (PA77-3030)	---	May 12, 1976.
PA77-3123 (PA77-3034)	---	Apr. 15, 1977.
PA77-3124 (PA77-3033);		Feb. 18, 1977.
PA77-3125 (PA77-3029).		
PA77-3126 (PA77-3032)	---	Mar. 25, 1977.

Signed at Washington, D.C., this 1st day of September 1977.

RAY J. DOLAN,  
Assistant Administrator,  
Wage and Hour Division.

DECISION #A277-5052 - Mod. #4  
(42 FR 26115 - May 20, 1977)  
Statewide, Alaska

ADD:  
ELECTRICIANS:  
RESIDENTIAL

CHANGE:

IRONWORKERS:

Bender Operator; Bridges;  
Fence Erector; Machinery  
Mover; Ornamental; Reinforcing;  
Sheeter; Structural  
PLUMBERS, RESIDENTIAL:  
Area II  
SHEET METAL WORKERS:  
Areas II and III

DECISION NO. A277-4114 - Mod. #5  
(42 FR 30106 - June 10, 1977)  
Sebastian, Crawford and  
Washington Counties, Arkansas

CHANGE:  
ASBESTOS WORKERS (Sebastian and  
Crawford Counties)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$10.25	1.05			.05
17.05	.85	2.75		.20
14.32	.73	1.40		.15
18.61	.61	.75		.15
\$11.50	.35	.75		.015

DECISION NO. A277-5038 - Mod. #3  
(42 FR 31056 - June 17, 1977)  
Statewide, Arizona

CHANGE:

Ironworkers:

Central and Southern Areas  
Northern Area  
Plumbers; Steamfitters:

Zone I

Zone II

Zone III

Zone IV

Sheet Metal Workers:

(Zone Bases - from the  
Administration Building or  
City Hall in Flagstaff,  
Kingman, Phoenix, Prescott  
and Yuma)

Zone I

Zone II

Zone III

(Zone Bases - from the  
Administration Building or  
City Hall in Douglas and  
Tucson)

Zone A

Zone B

Zone C

Terrazzo Workers; Tile  
Setters; Marble Masons  
(Tucson Area)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.48	\$1.24	\$2.22		.08
13.48	1.24	2.22		.08
11.74	.75	1.35		.10
12.09	.75	1.35		.10
12.51	.75	1.35		.10
13.61	.75	1.35		.10
10.48	34+.75	1.20		.10
11.13	34+.75	1.20		.10
12.90	34+.75	1.20		.10
9.90	34+1.04	1.91		.04
10.85	34+1.04	1.91		.04
12.40	34+1.04	1.91		.04
9.27	.90	.85		

	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
<p><b>DECISION NO. A577-5059 - Mod. #2</b> (42 FR 31045 - June 17, 1977) Maricopa County, Arizona</p> <p><b>Change:</b> Ironworkers Plumbers; Steamfitters: Zone I Zone II Zone III Zone IV Sheet Metal Workers: Zone I Zone II Zone III</p>	\$11.48	\$2.22			.08
	\$1.24				
	.75	1.35			.10
	.75	1.35			.10
	.75	1.35			.10
	.75	1.35			.10
	34+.75	1.20			.10
	34+.75	1.20			.10
	34+.75	1.20			.10
<p><b>DECISION NO. A577-5060 - Mod. #3</b> (42 FR 31070 - June 17, 1977) Pima County, Arizona</p> <p><b>Change:</b> Ironworkers Plumbers; Steamfitters: Zone I Zone II Zone III Zone IV Sheet Metal Workers: Zone A Zone B Zone C Terrazzo Workers; Tile Setters; Marble Setters</p>	\$11.48	\$2.22			.08
	\$1.24				
	.75	1.35			.10
	.75	1.35			.10
	.75	1.35			.10
	.75	1.35			.10
	34+1.04	1.91			.04
	34+1.04	1.91			.04
	34+1.04	1.91			.04
	.90	.85			
<p><b>DECISION #0E77-3042 - Mod. #6</b> (42 FR-17756 - April 1, 1977) - State of Delaware</p> <p><b>Change:</b> Boilermakers: New Castle County Plumbers &amp; Steamfitters: New Castle &amp; Kent (north of the southern boundary of Dover City) Counties: Plumbers</p>	\$12.80	1.00			.02
	1.05				
	1.15	1.00			.02

	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
<p><b>DECISION #0D77-3077 - Mod. #4</b> (42 FR-28780 - June 3, 1977) Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, Harford, Howard, and Baltimore City, Maryland</p> <p><b>Change:</b> Bricklayers Marble Setters Sprinkler Fitters: Baltimore City including a 10-mile radius beyond the City limits Stone Masons</p>	.70	.50			.07
	.70	.50			.07
	.65	.95			.05
	.70	.50			.07
<p><b>DECISION #0D77-2051 - Mod. #3</b> (42 FR 23374 - May 6, 1977) Alger, Barrage, Chippewa, Dickinson, Cossabic, Houghton, Kenosha, Racine, Marquette &amp; Outagamie Counties, Michigan</p> <p><b>CHANGE:</b> Plumbers &amp; Steamfitters</p>	\$9.43	.70	1.00		.02
<p><b>DECISION #0D77-2052 - Mod. #3</b> (42 FR 24618 - May 13, 1977) Marquette County, Michigan</p> <p><b>ADD:</b> Plumbers &amp; Steamfitters</p>	\$9.43	.70	1.00		.02

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
<p>DECISION #NVT7-2048 - Mod. #3 (42 FR 26157 - May 20, 1977)</p> <p>Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chase, Cook, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Kanabec, Koochiching, Lake, LeSueur, Martin, Meeker, McLeod, Millie Lacs, Morrison, Haver, Nicollet, Nobles, Olmstead, Pine, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, St. Louis, Wabasha, Waseca, Winneton, Winona &amp; Wright Counties, Minnesota</p>				
<p>CHANGE: Power Equipment Operators; Counties of Nobles &amp; Rock &amp; the Remainder of Benton, Itasca, Koochiching, McLeod, Martin, Meeker, Morrison, Nicollet, Sibley &amp; Stearns</p>				
\$13.45	.45	.40		
9.27	.45	.40		
9.02	.45	.40		
8.88	.45	.40		
8.80	.45	.40		
8.27	.45	.40		
7.87	.45	.40		

Modifications page 6

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
<p>DECISION #NVT7-5061 - Mod. #4 (42 FR 31074 - June 17, 1977)</p> <p>Clark County (does not include the Nevada Test Site), Nevada</p>				
<p>CHANGE: Leathers Painters: Brush; Roller Paperhangers; Spray; Steel; Spring Stages; Sandblasters; Tapers</p>				
\$10.60	.70	\$1.00	\$1.00	.16
12.64	.75	.35		.06
12.99	.75	.35		.06
<p>DECISION #NVT7-5072 - Mod. #3 (42 FR 35562 - July 8, 1977)</p> <p>Nevada Test Site including Tomopah Test Range in Clark and Nye Counties, Nevada</p>				
<p>CHANGE: Asbestos Workers Ironworkers: Reinforcing; Ornamental; Structural Plumbers; Steamfitters</p>				
\$11.82	.85	\$1.20	\$1.00	
11.56	1.24	2.22	1.46	.06
12.15	1.05	1.90	1.85	.08
<p>DECISION #NVT7-3079 - Mod. #2 (42 FR-31080 - June 17, 1977)</p> <p>Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey</p>				
<p>CHANGE: Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers, Tile Layers, &amp; Terrazzo Workers Zone 3</p>				
\$10.40	.50	.25		.02

NOTICES

DECISION NO. GR77-2106 - Mod. #1  
(42 FR 33591 - July 8, 1977)  
Statewide, Ohio

Change:  
Bricklayers:  
Alabama Co.  
Brown, Clermont, & Hamilton  
Cos.  
Butler & Warren Cos. & Preble  
Co. (Twp. of Dixon, Gracia,  
Isreal, Lanier, & Somers)  
Columbian Co. (Twp. of E.  
Liverpool, Franklin, Madison,  
St. Clair, Washington, Wayne  
& Yellow Creek), Jefferson  
Co. (Twp. of Bush, Creek &  
Saline)  
Darré, Miami, & Shelby Cos.  
Noble Co. (Twp. of Beaver,  
Buffalo, Marion, Seneca &  
Wayne)  
Jackson & Vinton Cos.  
Lawrence Co.  
Carpenters & Piledrivers:  
Adams, Fayette, Gallia,  
Highland, Jackson, Lawrence,  
Meigs, Pike, Ross, & Scioto  
Cos.  
Carpenters  
Piledrivers:  
Ashland, Crawford, Huron,  
Lorain & Richland Cos.  
Carpenters  
Erie (E. of B & O RR Tracks)  
Carpenters  
Erie (W. of B & O RR Tracks),  
Ottawa, Sandusky & Seneca  
Cos. & city of Fostoria in  
Wood & Hancock Cos.  
Carpenters

DECISION NO. GR77-2108 (Cont'd)

Athens,ocking, Vinton, &  
Washington Cos.  
Carpenters  
Piledrivers:  
Belmont & Monroe Cos.  
Carpenters  
Columbians, Harrison &  
Jefferson Cos.  
Carpenters  
Darré, Greens, Miami, Mont-  
gomery, Preble, & Shelby  
Cos.  
Carpenters  
Piledrivers  
Defiance, Henry, Paulding &  
Williams Cos.  
Carpenters  
Mahoning & Trumbull Cos.  
Carpenters  
Piledrivers:  
Electricians:  
Allen, Anglaise, Hardin,  
Logan, Mercer, Shelby, &  
Van Wert Cos. & Wyandot Co.  
(W. of Crane, Pitt, &  
Tymochtee Twp.)  
Brown, Clermont, & Hamilton  
Cos.  
Within 18 mi. of Hamilton  
Co. Court House  
From 18 to 21 miles  
From 21 to 25 miles  
Over 25 miles  
Lorain Co. (Rem. of Co.) &  
Medina Co. (Twp. of Litch-  
field & Liverpool)  
Morgan Co.  
Ironworkers:  
Ashabula (Rem. of Co.)  
Belmont, Goumney, Harrison,  
Jefferson, & Monroe Cos.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
11.75	.60	.60		.05
12.095	.55	.35		.02
12.095	.55	.35		.02
10.30	.60	.50		.02
10.35	.75	.25		.05
10.33	.60	.50		.02
11.25				.05
10.70		.50		.05
10.60	.40	.50		.03
10.89	.40	.50		.03
10.81	.55	1.00	#	.04
10.81	.55	1.00	#	.04
10.81	.55	1.00	#	.04
9.77	.50	.70		.02
10.37	.50	.70		.02
9.85	.87	.65		.02
9.85	.87	.65		.02
10.35	.60	1.00		.05
10.35	.60	1.00		.05
11.54	.93	.75		.04
10.34	1.07	1.00		.04
11.15	1.07	1.00		.04
11.44	.32	3%+.37		.04
11.85	.70	3%+.40		.5%
12.15	.70	3%+.40		.5%
12.25	.70	3%+.40		.5%
12.40	.70	3%+.40		.5%
12.50	.60	3%+.80		.1%
9.40	.28	3%		.02
10.74	1.86	1.01		.15
11.28	.70	.85		.03

NOTICES

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DECISION NO. OBT7-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Lorain Co. (except Columbia Twp.) & Madras Co. (Twp. of Litchfield & Liverpool)	\$12.50	.60	3%+.80		.11
Painters: Ashland, Crawford, Marion, Morrow, & Richland Cos.	8.80		.50		
Brush Structural steel	9.30		.50		
Spray	9.55		.50		
Brown, Clermont, & Hamilton Cos.	11.40		.25		
Brush	11.80		.25		
Spray Carroll, Holmes, Stark, Tuscarawas & Wayne Cos.	9.91	.78	.60		.02
Brush	10.44	.78	.60		.02
Spray Structural steel Delaware, Fairfield, Fayette, Franklin, Madison, Pickaway, & Union Cos.	10.62	.78	.60		.02
Brush	9.99	.55	.55		.02
Structural steel	10.29	.55	.55		.02
Spray Seneca & Wyandot Cos.	10.49	.55	.55		.02
Erie, Hancock, Huron, Sandusky, Seneca & Wyandot Cos.	9.40	.50	.60		\$50.00p/yr
Brush Structural steel & bridges	9.85	.50	.60		50.00p/yr
Flumbers & Steamfitters: Allen, Auglaize, Hardin, Mercer, Shelby, & Van Wert Cos.	12.00	.50	.75		.05
Ashland, Crawford, Erie, Huron, Knox, Lorain, Morrow, Richland & Wyandot Cos.	12.25	.60	.88		.05
Carroll Co. (except Twp. of Ross, Monroe, Union, Lee, Orange, Perry & London), Stark & Wayne Cos.	11.42	.45	.70		.05

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DECISION NO. OBT7-2108 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Crawford, Fayette, Hardin, Hocking, Jackson (W of Co.), Knox, Marion, Morrow, Muskingum, Perry, Pike (Pt.), Ross, Vinton, Wyandot, & the rem. of Champaign, Clark, Highland & Logan Cos.	\$11.10	.90	1.55		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.00	.90	1.55		.05
Franklin Co.	10.85	.90	1.55		.05
Fulton, Hancock, Henry, Lucas, Octava, Sandusky, Seneca, & Wood Cos.	12.30	.93	1.11		.05
Linnemen: Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert & Wyandot Co. (Rem. of Co.) Ashland, Crawford, Marion, Morrow, & Richland Cos., Huron Co. (Twp. of Greenwich, New Haven, Richmond, & Ripley), Knox Co. (North half incl. the Twp. of Clinton, Howard, Liberty, Monroe, & Union), & Wyandot Co. (East half incl. the Twp. of Crane, Pitt & Tymochres)	11.68	.45	3%		1/2
Brown, Clermont, & Hamilton Cos.	11.35	.45	3%+.30		1/2
Within 18 mi. of Hamilton Co. Court House	11.85	.70	3%+.40		.5%
From 18 to 21 miles	12.15	.70	3%+.40		.5%
From 21 to 25 miles	12.25	.70	3%+.40		.5%
Over 25 miles	12.40	.70	3%+.40		.5%
Erie Co., & Huron Co. (Rem. of Co.) Fayette, Highland, Hocking & Ross Cos. & the rem. of Jackson, Pike & Vinton Cos.	11.85	.53	3%		1/2
	10.95	.28	3%		1/2

## DECISION NO. OK77-2108 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Carroll (Twp. of Ross, Monroe, Union, Lee, Orange, Perry & London), Custer, Gurnsey, Holmes, Morgan (S. of State Rte #78 & from McConsville west on State Rte #17 to the Perry Co. line), Muskogee, Noble, & Tuscarawas Cos., Clinton, Darke, Fayette, Miami, Montgomery, Preble, & Greene Co. (Rem. of Co.) Fortage Co. & the rem. of Medias & Summit Cos.	.35 .55 .79	.50 .70 .90		.08 .03 .05
Omit: Footnote under cement masons: 2 Paid Holidays: Memorial Day and Independence Day				
Add: Footnote under carpenters: a. Paid Holidays: Memorial Day and Independence Day				

DECISION NO. OK77-4163 - Mod. #4  
(42 FR 36764 - July 15, 1977)  
Garfield County, Oklahoma

CHANGE:  
BRICKLAYERS-Stonemasons

DECISION NO. OK77-4164 - Mod. #3  
(42 FR 36766 - July 15, 1977)  
Muskogee, Adair and Cherokee Counties, Oklahoma

CHANGE:  
ASBESTOS WORKERS  
CEMENT MASONS:  
Cement masons  
Power tool operator

DECISION NO. OK77-4165 - Mod. #3  
(42 FR 36769 - July 15, 1977)  
Wagoner County, Oklahoma

CHANGE:  
ASBESTOS WORKERS  
CEMENT MASONS (ZONE II-Remainder of Wagoner County)

DECISION NO. OK77-4166 - Mod. #2  
(42 FR 36771 - July 15, 1977)  
McIntosh County, Oklahoma

CHANGE:  
ASBESTOS WORKERS  
CEMENT MASONS  
Change Carpenters to read:  
CARPENTERS Northern half of Co.  
Carpenters  
Millwrights-Piledrivers

ADD:  
CARPENTERS Southern half of Co.  
Carpenters  
Millwrights-Piledrivers

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.75		.30		
11.50 8.85 9.10	.35	.75		.015
11.50 8.85	.35	.75		.015
11.50 8.85	.35	.75		.015
8.25 8.75	.25 .25	.45 .45		.01 .01
7.85 9.20	.45 .45	.45 .45		.05 .05

DECISION NO. OK77-4167 - Mod. #1  
(42 FR 36773 - July 15, 1977)  
Pittsburg County, Oklahoma

CHANGE:  
ASBESTOS WORKERS

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.50	.35	.75		.015

DECISION NO. OK77-4168 - Mod. #3  
(42 FR 36884 - July 29, 1977)  
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes, and Rogers Counties, Oklahoma

CHANGE:  
ASBESTOS WORKERS

11.50	.35	.75		.015
-------	-----	-----	--	------

DECISION NO. OK77-4174 - Mod. #3  
(42 FR 36887 - July 29, 1977)  
Oklahoma, Cleveland, Caddo, Kingfisher, Canadian, Grady, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma

CHANGE:  
BROCKLAYS-STONEMASONS  
Kingfisher County

8.75		.30		
------	--	-----	--	--

DECISION #PA77-3016 - Mod. # 1  
(42 FR 43353 - August 26, 1977)  
Bucks, Chester, Delaware, Montgomery, Philadelphia Counties, Pennsylvania

Change:  
Boilermakers  
Electricians:  
Zone - 1  
Commercial

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.80	1.05	1.00		.02
12.59	6%	3%-6%		2%

DECISION #877-1080 - Mod. #1  
(42 FR 37764 - July 22, 1977)  
Hamilton (Building and Heavy Construction); Bradley, Marion, Meigs, Polk and Ebes (Building Construction Only) Counties, Tennessee.

Delete From Counties:

Bradley, Marion, and Meigs

DECISION #877-5075 - Mod. #1  
(42 FR - August 5, 1977)  
Statewide Utah

Change:

Carpenters:  
Heavy and Highway construction:  
Zone 1: Area 0 to 40 miles  
from the following Cities:  
Birmingham, Cedar City,  
Kansas, Logan, Moss, Monticello,  
Ogden, Price, Provo,  
Richfield, St. George,  
Salt Lake City, Vernal;

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 2: Area 40 to 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 3: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 4: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 5: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 6: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 7: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 8: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 9: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 10: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 11: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 12: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 13: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 14: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 15: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 16: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 17: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 18: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 19: Area over 60 miles  
from the above-named Cities:

Carpenters:  
Saw Operators; Carpenters  
handling creosote  
materials  
Millwrights  
Filedriermen  
Zone 20: Area over 60 miles  
from the above-named Cities:

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$9.75	.55	.60		.03
10.00	.55	.60		.03
10.35	.55	.60		.03
11.98	.55	.60		.03
10.75	.55	.60		.03
11.00	.55	.60		.03
10.35	.55	.60		.03
11.98	.55	.60		.03
11.75	.55	.60		.03
12.00	.55	.60		.03
10.35	.55	.60		.03
11.98	.55	.60		.03
13.50	.50	.60		.05
8.96	.51	.30	b+ 1.05	
8.80	.40	.35		
9.90	.55	.60		.01

STATE: Arkansas  
 COUNTY: Conway, Faulkner, Van Buren, Cleburne & Perry  
 DATE: Date of Publication  
 DECISION NO. AR77-4217  
 SUPERSEDES DECISION NO. AR77-4106 Dated May 27, 1977 in 42 FR 27563  
 DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories). Building construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes, in all construction of such structures, the installation inside the building of utilities and equipment, both above and below ground level, as well as excavation and foundation.

DECISION #A77-5075 (Cont'd)1

Change (Cont'd):  
 Plumbers; Pipefitters:  
 Zone 1: Within a 15 mile radius from the center of each City, namely Salt Lake City, Ogden and Provo, Utah  
 Zone 2: Zone 1 plus 15 miles  
 Zone 3: Zone 2 plus 15 miles  
 Zone 4: Zone 3 plus 15 miles  
 Zone 5: All areas beyond Zone 4

Power Equipment Operators:  
 Heavy and Highway constructions  
 Steel Erection:  
 Group 1  
 Group 2  
 Group 3  
 Group 4  
 Group 4-A  
 Group 5  
 Group 6  
 Group 6-A  
 Group 7

Piledriving:  
 Group 1-A  
 Group 1-B  
 Group 1-C  
 Group 2-A  
 Group 2-B  
 Group 3  
 Group 3-A  
 Group 4  
 Group 5  
 Group 6

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$10.75	.51	\$1.00		.06
	11.30	.51	1.00		.06
	11.85	.51	1.00		.06
	13.25	.51	1.00		.06
	13.75	.51	1.00		.06
	9.69	.90	1.615	.85	.14
	10.10	.90	1.615	.85	.14
	11.19	.90	1.615	.85	.14
	11.34	.90	1.615	.85	.14
	11.65	.90	1.615	.85	.14
	12.17	.90	1.615	.85	.14
	12.61	.90	1.615	.85	.14
	13.22	.90	1.615	.85	.14
	14.31	.90	1.615	.85	.14
	9.18	.90	1.615	.85	.14
	9.55	.90	1.615	.85	.14
	9.78	.90	1.615	.85	.14
	9.78	.90	1.615	.85	.14
	10.60	.90	1.615	.85	.14
	10.92	.90	1.615	.85	.14
	11.36	.90	1.615	.85	.14
	11.73	.90	1.615	.85	.14
	12.11	.90	1.615	.85	.14
	13.27	.90	1.615	.85	.14

DECISION NO. WA77-5076 - Mod. #1  
 (42 FR 42145-August 19, 1977)  
 Statewide, Washington

Change:  
 Truck Drivers:  
 (Area 1)  
 Group 1

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$9.38	\$1.02	.75		

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$10.40	.45	.60		.02
	10.00	.50	1.00		.02
	8.70	.40	.35		.04
	8.63	.45	.35		.05
	9.13	.45	.35		.05
	7.93	.45	.35		.04
	8.43	.45	.35		.04
	8.67	.25			.03
	10.45	.40	3%		1/4%
	10.575	.40	3%		1/4%
	8.88	.545	.35	4%+6	.02
	70LJR	.545	.35	4%+6	.02
	50LJR		.25		
	7.90	.45	.40		.04
	9.50				
	6.00	.25	.52		
	6.25	.25	.52		
	6.40	.25	.52		
	6.50	.25	.52		
	6.65	.25	.52		
	6.90	.25	.52		
	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blow-pipe, and concrete pump hose placer

GROUP II

Semi-skilled laborers; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt takers and shovelers, creosote wood handlers, chuck tender

GROUP III

Steelform setters, curb and gutters, grout and cement muckers

GROUP IV

Swinging scaffold, Barco, 90 lb pavement breaker, and burners

GROUP V

Nozzleman (Gumite, Gront, and sandblaster); concrete pump (nozzle placer)

GROUP VI

Powderman and blasterers

GROUP VII

Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
<b>PLASTERERS</b>	\$ 8.85				.02
<b>PLUMBERS &amp; PIPEFITTERS:</b> Within 10 mile radius of Pulaski County Courthouse Over 10 mile from Pulaski County Courthouse	10.35	.45	.55		.02
<b>POWER EQUIPMENT OPERATORS:</b>	10.65	.45	.55		.02
GROUP I	9.64	.35	.35		
GROUP II	8.76	.35	.35		
GROUP III	8.36	.35	.35		
GROUP IV	6.92	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II

Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size.

GROUP III - HEAVY EQUIPMENT OPERATORS:

All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator.

GROUP IV - LIGHT EQUIPMENT OPERATORS:

Other driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand.

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blow-pipe, and concrete pump hose placer

GROUP II

Semi-skilled laborers; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt takers and shovelers, creosote wood handlers, chuck tender

GROUP III

Steelform setters, curb and gutters, grout and cement muckers

GROUP IV

Swinging scaffold, Barco, 90 lb pavement breaker, and burners

GROUP V

Nozzleman (Gumite, Gront, and sandblaster); concrete pump (nozzle placer)

GROUP VI

Powderman and blasterers

GROUP VII

Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
<b>LATHERS</b>	\$ 8.85				.02
<b>LINE CONSTRUCTION:</b>					
Linemen	10.85		3%		3/8%
Cable splicers	10.975		3%		3/8%
Operator	10.85		3%		3/8%
Groundmen (advanced)	65LR		3%		3/8%
Groundmen (1st 6 months)	69LR		3%		3/8%
Winch equipment	75LR		3%		3/8%
<b>MARBLE, TILE &amp; TERRAZZO WORKERS</b>	7.95				
<b>PAINTERS:</b>	5.80				
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skeleton steel and all work on stage, structural steel over 30 feet high	8.05		.35		.02

SUPPLEMENTAL DECISION

STATE: Maryland

COUNTIES: Anne Arundel, Calvert  
Carroll, Charles, Frederick, Howard,  
Montgomery, Prince George's, St.  
Mary's, and Washington

DECISION NO. AB77-4217

DECISION NO.: MD77-3119  
Supersedes Decision No.: MD76-3151 dated March 19, 1976 in 41 FR-11742  
DESCRIPTION OF WORK: Highway Construction (does not include airport run-  
ways and taxiways, bridges over navigable waters, tunnels, rest areas  
which include building structures, and railroad construction)

ZONE 1:  
Anne Arundel, Calvert, Charles, Prince  
George's, & St. Mary's Counties

ZONE 2:  
Carroll, Howard, Frederick, Montgomery,  
& Washington Counties

	Zone 1	Zone 2
Bricklayers	\$8.20	\$8.20
Carpenters	6.57	5.60
Cement Finishers - Masons	6.08	5.85
Electricians	6.43	5.67
Ironworker, Structural	7.15	7.50
Ironworker, Reinforcing	5.40	5.40
Painters	-----	5.65
Laborers:		
Laborer	3.80	4.45
Air Tool Oper. (Jackhammer, Vibrator)	5.43	4.90
Asphalt Baker - Spreader	5.15	4.96
Chipper Machine Operator	-----	5.25
Formsetters	5.00	4.55
Mulch Blower	-----	5.00
Pipelayers (Concrete, Clay, & Drainage)	5.21	4.60
Piledrivers	6.75	-----
Power Equipment Operators:		
Asphalt Distributors, Liquid	5.92	5.43
Asphalt Screed	5.18	-----
Backhoe	5.83	5.30
Bucket Paver	5.00	5.20
Bituminous - Concrete Paver	5.66	5.09
Bulldozer	6.00	5.28
Cranes, Derricks, & Draglines	7.20	6.80
Concrete Finishing Machine	5.20	5.20
Drilling Machine	-----	5.99
Gravel	-----	5.40
Guardrail - Post Hammer Operator	4.50	6.00
Hydroseeder	5.00	-----
Loaders	6.03	5.17
Mechanics	6.83	5.72
Motor Patrol - Grader	6.52	5.51
Oilers - Greasers	5.86	5.25
Piledriver Operator	-----	6.50
Rollers, Base	5.26	4.55

Bricklayers

Carpenters

Cement Finishers - Masons

Electricians

Ironworker, Structural

Ironworker, Reinforcing

Painters

Laborers:

Laborer

Air Tool Oper. (Jackhammer, Vibrator)

Asphalt Baker - Spreader

Chipper Machine Operator

Formsetters

Mulch Blower

Pipelayers (Concrete, Clay, & Drainage)

Piledrivers

Power Equipment Operators:

Asphalt Distributors, Liquid

Asphalt Screed

Backhoe

Bucket Paver

Bituminous - Concrete Paver

Bulldozer

Cranes, Derricks, & Draglines

Concrete Finishing Machine

Drilling Machine

Gravel

Guardrail - Post Hammer Operator

Hydroseeder

Loaders

Mechanics

Motor Patrol - Grader

Oilers - Greasers

Piledriver Operator

Rollers, Base

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 7.95	.45	.10		.05
10.25	.65	.44		.08
10.12		.95		

ROOFERS  
SHEET METAL WORKERS  
SPRINKLER FITTERS

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:  
A - New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

- a. Paid Holidays - A through F
- b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 1% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDES DECISION

STATE: New Mexico COUNTY: Statewide  
 DECISION NO. N977-4218 DATE: Date of Publication  
 SUPERSEDES DECISION NO. N977-4116 dated June 17, 1977 in 42 FR 31094  
 DESCRIPTION OF WORK: BUILDING AND HEAVY CONSTRUCTION (Heavy construction consists of modifications, addition, alterations or repairs on railroad construction projects, drainage project; aqueducts, irrigation projects, flood control projects, reclamation projects, reservoirs, water supply projects (exclusive of distribution lines and appurtenances and filtration plants earth dams (over 1 million yards), concrete dams, dikes, levees, revetments, channels, channel cutoffs, intakes, dredging projects, jetties, breakwaters, docks, harbors, excavation and disposals by contract or overburden and the excavation and loading of all material from which the overburden has been removed, open-pit strip mining, viaducts, pedestrian tunnels, piers, abutments and clearing and grubbing, incidental to such heavy construction projects (exclusive of such work in connection with highway, building and light construction projects), subways, tunnels, shafts, missile silos and missile projects. (Except buildings underground), hydro-electric power plant projects and power plant facilities in their entirety (exclusive of steam plants), electric transmission lines, and including the operation, maintenance and repair of all land and floating plant, equipment, vehicles and other facilities used in connection with and serving the aforementioned work and services incidental to such projects (also, including RESIDENTIAL CONSTRUCTION in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).)

Decision #N977-3119 (Cont')

- Power Equipment Operators - Cont'd
- Rollers, Finish
- Scrapers, Pans, Scoops
- Spreader, Aggregate
- Tractor
- Trenching Machine
- Truck Drivers
- Welders

ZONE 1	ZONE 2
5.73	5.14
5.00	----
-----	5.00
-----	5.20
-----	4.50
5.56	5.08
6.88	----

	Basic Heavy Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING & HEAVY CONSTRUCTION	\$11.56	.50	1.27a		.06
ASBESTOS WORKERS:	10.00	.65	.55		.07
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties)	9.625	.775	1.00	.50	.02
Union, Harding, Lea, Roosevelt, Curry and Quay Counties	9.56	.57	.50		.10
BOILERMAKERS	10.56	.57	.50		.10
BRICKLAYERS-STONEMASONS:	11.06	.57	.50		.10
Zone I-A	9.61	.57	.30		.10
Zone I-B	10.36	.57	.30		.10
Zone I-C	9.81	.57	.20		.10
Zone II	10.56	.57	.30		.10
Zone III	9.01	.57	.30		.10
Zone IV	9.81	.57	.30		.10
Zone V	10.56	.57	.30		.10
Zone VI	9.01	.57	.30		.10
Zone VII	9.81	.57	.30		.10
Zone VIII	9.79	.67	.20		.10
Zone IX	8.79	.67	.20		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties

From basing point of Albuquerque Main Post Offices

- Zone I-A - 0 to 25 road miles
- Zone I-B - 25 to 50 road miles
- Zone I-C - Over 50 road miles

ZONE II - Curry, and Roosevelt Counties

ZONE III - DeBaca, Guadalupe and Quay Counties

ZONE IV - Chaves County

ZONE V - Lincoln County

ZONE VI - Lee and Eddy Counties

ZONE VII - Otero Counties

ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Harley and new town site of Tyrone; Hidalgo and Sierra Counties

CARPENTERS' ZONE DEFINITIONS

CARPENTERS (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Emileo, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumanari.

ZONE I - Dwelling houses & apartments not to exceed two stories in height

- Zone I-A - 0 - 15 road miles from nearest basing point
- Zone I-B - 15 to 35 road miles from nearest basing point
- Zone I-C - Over 35 road miles from nearest basing point

ZONE II - General Building & Heavy Engineering and Residential Construction (Dwelling Houses and Apartments over two stories in height):

- Zone 2-A - 0 to 15 road miles from nearest basing point
- Zone 2-B - 15 to 35 road miles from nearest basing point
- Zone 2-C - Over 35 road miles from nearest basing point

Fringe Benefits Payments

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$10.25	.95	1.00	.65	.20
11.50	.95	1.00	.65	.20
12.25	.95	1.00	.65	.20

MILLWRIGHTS & PIPELAYER ZONE DEFINITIONS

- Zone 1
- Zone 2
- Zone 3

MILLWRIGHTS & PIPELAYER ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:

- Zone 1 - 0 to 15 road miles from basing point
- Zone 2 - 15 to 35 road miles from basing point
- Zone 3 - Over 35 road miles from basing point

CEMENT MASONS:

- Area I
- Area II
- Zone 1
- Zone 2
- Zone 3
- Cement masons (Residential)
- Cement masons (Heavy)

CEMENT MASONS:

- Composition & Machine Operators
- Area I
- Area II
- Zone 1
- Zone 2
- Zone 3

Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$ 8.37	.57	.50		
8.42	.57	.50		
8.77	.57	.45		
9.02	.57	.45		
5.35	.57	.50		
8.37	.57	.50		
8.62	.57	.50		
8.67	.57	.50		
8.92	.57	.45		
9.27	.57	.45		

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
7.50	.95	1.00	.65	.20	.20
8.75	.95	1.00	.65	.20	.20
9.50	.95	1.00	.65	.20	.20
9.50	.95	1.00	.65	.20	.20
10.75	.95	1.00	.65	.20	.20
11.50	.95	1.00	.65	.20	.20

BUILDING AND HEAVY CONSTRUCTION CARPENTERS:

Dwelling houses & apartments not to exceed two stories in height:

- Zone I-A
- Zone I-B
- Zone I-C

General Building, Heavy and Residential Construction (Dwelling houses and apartments over two stories in height):

- Zone 2-A
- Zone 2-B
- Zone 2-C

**CEMENT MASON'S AREA DEFINITIONS**  
**AREA I** - Statewide except Farmington, San Juan County  
**AREA II** - Farmington, San Juan County  
**Zone I** - 0-15 miles from Farmington City Hall  
**Zone II** - 15-35 miles from Farmington City Hall  
**Zone III** - 35 miles and over from Farmington City Hall

**ELECTRICIANS-CABLE SPlicERS ZONE DEFINITIONS**

**ZONE I**

**AREA 1** - Bernallillo, Santa Fe, Torrance, DeBaca, Guadalupe, Coqui, San Miguel, Mora, Harding, Union, Colfax, Taos Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra and all of San Juan County enclosing the Navajo Indian Reservation.  
**AREA 2** - Chaves, Curry, Lincoln and Roosevelt Counties

**AREAS 1-A & 2-A**

From nearest basing point cities, towns and mileage from main post office in the following towns:

- Albuquerque - 15 miles from main post office
  - Santa Fe - 15 miles from main post office
  - Las Vegas - 8 miles from main post office
  - Farmington - 8 miles from main post office
  - Baton - 6 miles from main post office
  - Tucuman - 6 miles from main post office
  - Astec - 6 miles from main post office
  - Roswell - 12 miles from main post office
  - Ruidoso - 12 miles from main post office
  - Portales - 12 miles from main post office
  - Carrizozo - 12 miles from main post office
  - Clavis - 12 miles from main post office
  - Gallup - 10 miles from main post office
  - \*Pojoaque - 2 miles from main post office
- \*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

**AREAS 1-B & 2-B**

Area 1-B and 2-B extending up to 20 miles beyond Area 1-A & 2-A

**AREAS 1-C & 2-C**

Area 1-C & 2-C extending up to 30 miles from Area 1-A & 2-A

**AREAS 1-D & 2-D**

Area 1-D & 2-D anything beyond 30 miles from Area 1-A & 2-A

**ZONE II - Los Alamos County**

**ZONE III** - Dona Ana, Otero, Luna, Hidalgo Counties  
**Zone 3-A** - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the Post Office in Alamogordo.  
**Zone 3-B** - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)

**ZONE IV - Eddy and Lea Counties**

- the following zones shall be designated from the main post office of Artesia, Carlsbad, Hobbs and Lovington:  
**Zone 4-A** - 0 - 12 miles from main post office  
**Zone 4-B** - 12 to 22 miles from main post office  
**Zone 4-C** - 22 to 40 miles beyond main post office  
**Zone 4-D** - 40 miles and beyond main post office

**ZONE V - Single or multiple, family dwelling or apartments up to and including 26 units under one roof not exceeding two stories - Bernallillo, Santa Fe, Taos, Rio Arriba, Sandoval, Valencia and San Juan Counties, but not on the Navajo Indian Reservation**

	Basic Minority Rates	Fringe Benefits Payments			Education and/or Appn. Tr.
		H & W	Pensions	Vacation	
<b>ZONE I</b>					
<b>Area 1</b>					
1-A	\$10.50	.60	\$54.70		1/21
1-B	11.24	.60	\$54.70		1/21
1-C	11.87	.60	\$54.70		1/21
1-D	12.60	.60	\$54.70		1/21
<b>Area 2</b>					
2-A	9.91	.60	\$54.70		1/21
2-B	10.60	.60	\$54.70		1/21
2-C	11.20	.60	\$54.70		1/21
2-D	11.89	.60	\$54.70		1/21
2-E	11.87	.60	\$54.70		1/21
<b>ZONE II</b>					
<b>Zone 3-A</b>	9.10	.30	3%		1/21
<b>Zone 3-B</b>	10.55	.30	3%		1/21
<b>Zone 3-C</b>					
4-A	10.15	.60	3%	.01	
4-B	10.50	.60	3%	.01	
4-C	10.65	.60	3%	.01	
4-D	10.90	.60	3%	.01	
<b>Zone 3-E</b>	5.80	.30	1%		1/41
<b>ZONE V</b>					
<b>CABLE SPlicERS:</b>					
<b>ZONE I</b>					
<b>Area 1</b>					
1-A	11.55	.60	\$54.70		1/21
1-B	11.55	.60	\$54.70		1/21
1-C	12.29	.60	\$54.70		1/21
1-D	12.92	.60	\$54.70		1/21
1-E	13.65	.60	\$54.70		1/21
<b>Area 2</b>					
2-A	10.90	.60	\$54.70		1/21
2-B	11.59	.60	\$54.70		1/21
2-C	12.19	.60	\$54.70		1/21
2-D	12.88	.60	\$54.70		1/21
2-E	13.40	.60	\$54.70		1/21
<b>ZONE III</b>					
3-A	9.35	.30	3%		1/21
3-B	10.80	.30	3%		1/21
<b>ZONE IV</b>					
4-A	10.50	.60	3%	.01	
4-B	10.85	.60	3%	.01	
4-C	11.00	.60	3%	.01	
4-D	11.25	.60	3%	.01	

IRONWORKERS' ZONE DEFINITIONS

**ZONE I**  
**AREA I** - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance and Valencia Counties

**ZONE I**  
**AREA II** - Farmington, San Juan County  
 Zone 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall.  
 Zone 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of zone 1.  
 Zone 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of zone 2.  
 Zone 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of zone 3.  
 All areas not within Zones 1, 2, 3, and 4 shall revert to the \$15.00 per day subsistence rate.

**ZONE II** - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Bddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 160, east of Carlsbad.

**ZONE III** - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Weekly Rates	H & W	Pensions	Vacation	
<b>ELEVATOR CONSTRUCTORS:</b> Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties: Elevator constructors Elevator constructors helpers Elevator constructors, prob.	\$ 10.42 704.2R 504.2R	.545 .545	.35 .35	48-w+b 48-w+b	.02 .02
<b>CHAVES, HIDALGO, DONA ANA, BDDY</b> Grant, Lea, Luna, Otero and Sierra Counties: Elevator constructors Elevator constructors helpers Elevator constructors prob.	8.17 704.2R 504.2R	.545 .545	.35 .35	48-w+b 48-w+b	.02 .02
<b>GLAZIERS:</b> Zone I Zone II	6.94 8.54	.30 .35	.10 .20		.02 .02

GLAZIERS' ZONE DEFINITIONS

**GLAZIERS**  
**ZONE I** - Dona Ana, Luna, Otero Counties.  
**ZONE II** - Statewide, except Doan Ana, Luna and Otero Counties.

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Weekly Rates	H & W	Pensions	Vacation	
<b>IRONWORKERS:</b> Zone I - Area I Zone I - Area II Zone 1 Zone 2 Zone 3 Zone 4 Zone II Zone III	\$10.30 10.30 11.05 11.80 12.05 9.75 10.75	.55 .55 .55 .55 .55 .55 .55	1.00 1.00 1.00 1.00 1.00 1.00 1.00		.14 .14 .14 .14 .14 .10 .10

	Basic Weekly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
<b>LABORERS:</b> <u>BUILDING, HEAVY CONSTRUCTION</u> Group I Group II Group III Group IV Group V	\$6.31 6.61 6.61 6.91 7.06	.53 .53 .53 .53 .53	.67 .67 .67 .67 .67		.05 .05 .05 .05 .05

LABORERS' CLASSIFICATION DEFINITIONS

**GROUP I**  
 Unskilled; Building and common laborers, carpenter tenders, concrete workers, chainman-stakedrivers, concrete buggy operators  
**GROUP II**  
 Semi-skilled; Air and power tool operator, asphalt makers, demolition, gunite rebound men, fog machine operator, power buggy operators, roddmen, sand blasters (pot men), window washers, wagon, core and diamond drillers tender outside, grade setter.  
**GROUP III**  
 Wagon core, diamond drillers  
**GROUP IV**  
 Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzle men, pipelayer, pumpcrete nozzle men  
**GROUP V**  
 Foremen and blasters

LABORERS (RESIDENTIAL CONSTRUCTION)	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation
Group I	\$5.02	.53	.67	.05
Group II	5.32	.53	.67	.05
Group III	5.42	.53	.67	.05
Group IV	5.62	.53	.67	.05

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

- GROUP I**  
Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen-stakedrivers, concrete buggy operators, hand
- GROUP II**  
Semi-skilled - Air and power tool operator, asphalt rakers, demolition, gunite rebound men, fog machine operator, power buggy operator, rodders, sand blasters (pot men), window washers, wagon, core, and diamond drillers tender outside
- GROUP III**  
Wagon core, diamond drillers
- GROUP IV**  
Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite masons, pipelayer, pumpcrete masons

LABORERS	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation
Zone I	\$ 9.105	.57		.02
Zone II	10.50			.01
Zone III	8.55			.01

LABORERS' ZONE DEFINITIONS

- ZONE I**  
Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties.
- ZONE II**  
Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties.
- ZONE III**  
Doña Ana and Otero Counties.

LINE CONSTRUCTION; BERNALILLO COUNTY ONLY	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation
Cable splicers	\$ 9.65	.60	15+.60	
Linemen - technicians	9.00	.60	15+.60	
Equipment operators	8.58	.60	15+.60	
Equipment mechanics	7.88	.60	15+.60	
Powderman	7.88	.60	15+.60	
Groundmen and jackhammer operators	4.88	.60	15+.60	
1st 6 months	5.31	.60	15+.60	
2nd 6 months	6.36	.60	15+.60	
Experienced				
<b>LINE CONSTRUCTION; SPRINGRIDGE (Except Bernalillo Co.)</b>				
Cable splicers	10.51	.60	15+.60	
Linemen - technicians	9.82	.60	15+.60	
Equipment operators	9.35	.60	15+.60	
Equipment mechanics	8.58	.60	15+.60	
Rowdiesmen	8.58	.60	15+.60	
Groundmen and jackhammer operators	5.31	.60	15+.60	
1st 6 months	5.99	.60	15+.60	
2nd 6 months	6.96	.60	15+.60	
Experienced				
<b>MARBLE, TILE &amp; TERRAZZO WORKERS</b>				
MARBLE, TILE & TERRAZZO FINISHERS	7.85	.67		
TERRAZZO MACHINE OPERATORS	6.28	.67		
	6.33	.67		
<b>PAINTER: ZONE I</b>				
Zone 1-A	8.52	.35	.20	.05
Zone 1-B	9.02	.35	.20	.05
Zone 1-C	8.77	.35	.20	.05
Zone 1-D	9.10	.35	.20	.05
Zone 1-E	8.85	.35	.20	.05
<b>PAINTERS (INDUSTRIAL WORK):</b>				
Brush, roller, sandblast and grinder operators	9.32	.35	.20	.05
Spray	9.82	.35	.20	.05
Pot tender	8.32	.35	.20	.05



POWER EQUIPMENT OPERATORS AREA DEFINITIONS:

- AREA I - Farmington, San Juan County
- Zone I - 0 - 15 miles from Farmington City Ball
- Zone II - 15-35 miles from Farmington City Ball
- Zone III - 35-50 miles from Farmington City Ball
- AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			Education end/yr Appl. Tr.
		H & W	Pensions	Vacation	
Group 1	\$7.58	.60	.60	.11	.11
Group 2	8.12	.60	.60	.11	.11
Group 3	8.20	.60	.60	.11	.11
Group 4	8.26	.60	.60	.11	.11
Group 5	8.32	.60	.60	.11	.11
Group 6	8.42	.60	.60	.11	.11
Group 7	8.52	.60	.60	.11	.11
Group 8	8.70	.60	.60	.11	.11
Group 9	9.50	.60	.60	.11	.11
Group 1	8.83	.60	.60	.11	.11
Group 2	9.37	.60	.60	.11	.11
Group 3	9.45	.60	.60	.11	.11
Group 4	9.51	.60	.60	.11	.11
Group 5	9.57	.60	.60	.11	.11
Group 6	9.67	.60	.60	.11	.11
Group 7	9.77	.60	.60	.11	.11
Group 8	9.95	.60	.60	.11	.11
Group 9	10.75	.60	.60	.11	.11
Group 1	9.08	.60	.60	.11	.11
Group 2	9.62	.60	.60	.11	.11
Group 3	9.70	.60	.60	.11	.11
Group 4	9.76	.60	.60	.11	.11
Group 5	9.82	.60	.60	.11	.11
Group 6	9.92	.60	.60	.11	.11
Group 7	10.02	.60	.60	.11	.11
Group 8	10.20	.60	.60	.11	.11
Group 9	11.00	.60	.60	.11	.11
Group 1	7.58	.60	.60	.11	.11
Group 2	8.12	.60	.60	.11	.11
Group 3	8.20	.60	.60	.11	.11
Group 4	8.26	.60	.60	.11	.11
Group 5	8.32	.60	.60	.11	.11
Group 6	8.42	.60	.60	.11	.11
Group 7	8.52	.60	.60	.11	.11
Group 8	8.70	.60	.60	.11	.11
Group 9	9.50	.60	.60	.11	.11

BUILDING AND HEAVY CONSTRUCTION CONSTRUCTION BUILDING CONSTRUCTION

AREA I (RESIDENTIAL AND BUILDING CONSTRUCTION)

ZONE I	Basic Hourly Rates	H & W	Pensions	Vacation	Education end/yr Appl. Tr.
Group 1	\$8.00	.48	.30	.01	.01
Group 2	7.27	.48	.30	.01	.01
Group 3	10.85	.63	1.42	.16	.16
Group 4	11.35	.63	1.42	.16	.16
Group 5	12.60	.63	1.42	.16	.16
Group 6	11.48	.63	1.42	.16	.16
Group 7	6.50	.63	.25	.16	.16

ZONE II

ZONE II	Basic Hourly Rates	H & W	Pensions	Vacation	Education end/yr Appl. Tr.
Group 1	8.83	.60	.60	.11	.11
Group 2	9.37	.60	.60	.11	.11
Group 3	9.45	.60	.60	.11	.11
Group 4	9.51	.60	.60	.11	.11
Group 5	9.57	.60	.60	.11	.11
Group 6	9.67	.60	.60	.11	.11
Group 7	9.77	.60	.60	.11	.11
Group 8	9.95	.60	.60	.11	.11
Group 9	10.75	.60	.60	.11	.11

ZONE III

ZONE III	Basic Hourly Rates	H & W	Pensions	Vacation	Education end/yr Appl. Tr.
Group 1	9.08	.60	.60	.11	.11
Group 2	9.62	.60	.60	.11	.11
Group 3	9.70	.60	.60	.11	.11
Group 4	9.76	.60	.60	.11	.11
Group 5	9.82	.60	.60	.11	.11
Group 6	9.92	.60	.60	.11	.11
Group 7	10.02	.60	.60	.11	.11
Group 8	10.20	.60	.60	.11	.11
Group 9	11.00	.60	.60	.11	.11

AREA II (RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION)

ZONE I	Basic Hourly Rates	H & W	Pensions	Vacation	Education end/yr Appl. Tr.
Group 1	\$8.00	.48	.30	.01	.01
Group 2	7.27	.48	.30	.01	.01
Group 3	10.85	.63	1.42	.16	.16
Group 4	11.35	.63	1.42	.16	.16
Group 5	12.60	.63	1.42	.16	.16
Group 6	11.48	.63	1.42	.16	.16
Group 7	6.50	.63	.25	.16	.16

	Basic Hourly Rates	Fringe Benefits Payments			Education end/yr Appl. Tr.
		H & W	Pensions	Vacation	
Group 1	\$8.00	.48	.30	.01	.01
Group 2	7.27	.48	.30	.01	.01
Group 3	10.85	.63	1.42	.16	.16
Group 4	11.35	.63	1.42	.16	.16
Group 5	12.60	.63	1.42	.16	.16
Group 6	11.48	.63	1.42	.16	.16
Group 7	6.50	.63	.25	.16	.16

BUILDING AND HEAVY CONSTRUCTION FLASHERS:

- Statewide, except Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties
- Otero, Grant, Sierra, Dona Ana, Luna and Hidalgo Counties

FLUNGERS-PIPEFITTERS:

- Area I
- Area II
- Area III
- Specific Area
- Residential

FLUNGERS - PIPEFITTERS: ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:

- Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Fortales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Tsoo, Tucumanari, Truth of Consequence and Socorro, New Mexico.

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas I or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Ojo Grande Range Camp and Dona Ana and Otero Counties.

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)

AREA I - Statewide, except San Juan County  
 Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton and Las Cruces.

- Zone I - 0 to 50 miles
- Zone II - Over 50 miles
- AREA II - Farmington, San Juan County
- Zone I - 0 to 15 miles from Farmington City Hall
- Zone II - 15 to 35 miles from Farmington City Hall
- Zone III - Over 35 miles from Farmington City Hall

HEAVY CONSTRUCTION (AREA I) 1

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I					
Zone 1	\$7.43	.60	.60		.11
Zone 2	8.43	.60	.60		.11
GROUP II					
Zone 1	7.97	.60	.60		.11
Zone 2	8.97	.60	.60		.11
GROUP III					
Zone 1	8.05	.60	.60		.11
Zone 2	9.05	.60	.60		.11
GROUP IV					
Zone 1	8.11	.60	.60		.11
Zone 2	9.11	.60	.60		.11
GROUP V					
Zone 1	8.17	.60	.60		.11
Zone 2	9.17	.60	.60		.11
GROUP VI					
Zone 1	8.27	.60	.60		.11
Zone 2	9.27	.60	.60		.11
GROUP VII					
Zone 1	8.37	.60	.60		.11
Zone 2	9.37	.60	.60		.11
GROUP VIII					
Zone 1	8.55	.60	.60		.11
Zone 2	9.55	.60	.60		.11
GROUP IX					
Zone 1	9.35	.60	.60		.11
Zone 2	10.35	.60	.60		.11

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS)

HEAVY CONSTRUCTION (AREA II)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I					
Zone 1	\$7.43	.60	.60		.11
Zone 2	8.18	.60	.60		.11
Zone 3	8.43	.60	.60		.11
GROUP II					
Zone 1	7.97	.60	.60		.11
Zone 2	8.72	.60	.60		.11
Zone 3	8.97	.60	.60		.11
GROUP III					
Zone 1	8.05	.60	.60		.11
Zone 2	8.80	.60	.60		.11
Zone 3	9.15	.60	.60		.11
GROUP IV					
Zone 1	8.11	.60	.60		.11
Zone 2	8.86	.60	.60		.11
Zone 3	9.11	.60	.60		.11
GROUP V					
Zone 1	8.17	.60	.60		.11
Zone 2	8.93	.60	.60		.11
Zone 3	9.11	.60	.60		.11
GROUP VI					
Zone 1	8.27	.60	.60		.11
Zone 2	9.02	.60	.60		.11
Zone 3	9.27	.60	.60		.11
GROUP VII					
Zone 1	8.37	.60	.60		.11
Zone 2	9.12	.60	.60		.11
Zone 3	9.37	.60	.60		.11
GROUP VIII					
Zone 1	8.55	.60	.60		.11
Zone 2	9.30	.60	.60		.11
Zone 3	9.55	.60	.60		.11
GROUP IX					
Zone 1	9.35	.60	.60		.11
Zone 2	10.10	.60	.60		.11
Zone 3	10.35	.60	.60		.11

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (BUILDING &amp; RESIDENTIAL)

## GROUP I

Fitterman, oiler, screedman, scale operator such as (Bin-a-Batch), rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakdown, concrete paving curing machine (bridge-type), helpers; mechanic, welder grease truck.

## GROUP II

Roller, sheepfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM and over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor-farm type (under 50 HP w/attachments), motorman and industrial locomotive operator, winch trucks, front and loader (under 2 CY), power plants which generate over 15 KW, welding machines

## GROUP III

Bituminous distributors, boilers, reboil and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor graders (tough), shaft and tunnel equipment, refrigeration, slusher, jumbo forms, trenching machines, (all types), pumpcrete and gunite machines, slipform paver, mechanical ballfloats, concrete slab spreading machine, concrete slab finishing machines, crushing plants.

## GROUP IV

Front end loader (2 thru 10 CY), rollers, steel wheeled-all types, bulldozers, scrapers, (motor or towed), elevating graders, concrete batching plants, self propelled rollers equipped with dozer, twin bowl scrapers and quad 8 or 9 pushers (35% over basic rate). Three bowl scrapers (60% over basic rate). Tractor (farm type w/hydraulic backhoes).

## GROUP V

Hydraulic cranes with less than 50 feet of boom (20 tons and under). Concrete paver double drum. 2 drum hoist, auto fine grader, cat cranes, hysters, side and swingboom cats.

## GROUP VI

Mocking machines, all types; motor grader, finish; mechanic, welder

## GROUP VII

Steam engineers; loader (front end over 10 CY); concrete pump (mortel type)

## GROUP VIII

All shovel type equipment; cranes, draglines, backhoes, derricks, guy and stiff leg; pipemobile (No. 2 op.), pile driver, hydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." type), cranes & draglines, with booms and jib over 150 feet - 25¢ per hour additional.

## GROUP IX

Shovel (wheel type), boring machine (tunnel or shaft mole), pipemobile

## POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (HEAVY CONSTRUCTION)

## GROUP I

Fitterman, oiler, screedman, scale operator such as (Bin-a-Batch), rubber tired farm type tractor, tractors under 50 HP w/o attachments, breakdown, concrete paving curing machine (bridge-type), helpers; mechanic, welder, grease truck

## GROUP II

Rollers, sheepfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM and over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor-farm type (under 50 HP w/attachment), motorman and industrial locomotive operator, winch truck front end loader (under 2 CY), power plants which generate over 15 KW, welding machines

## GROUP III

Bituminous distributors, boilers, reboil and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor graders (tough), shaft and tunnel equipment, refrigeration, slusher, jumbo forms, trenching machines, (all types), pumpcrete and gunite machines, slipform paver, mechanical ballfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

## GROUP IV

Front end loader (2 thru 7 CY), rollers steel wheeled (all types), bulldozers, scrapers, (motor or towed), elevating graders, concrete batching plants, self-propelled rollers, equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35% over basic rate), three bowl scrapers (60% over basic rate).

## GROUP V

Front end loader (over 7 CY thru 10 CY), hydraulic cranes, with less than 50 feet of boom (20 tons and under), concrete paver, double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoist, auto fine grader.

## GROUP VI

Mocking machines, all types, motor grader (finish), mechanic, welder

## GROUP VII

Steam engineers, loader (front end over 10 CY)

## GROUP VIII

All shovel type equipment; cranes, draglines, backhoes, derricks, guy and stiff leg, pipemobile (No. 2 operator), pile driver, hydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." type)

## GROUP IX

Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

SOUND INSTALLERS ZONE DEFINITIONS

**ZONE I**  
Thirty mile radius of main post office of Albuquerque

**ZONE II**  
Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.

**ZONE III**  
Chavez, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Toos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
Group 1	\$6.61	.57	.50	.50	
Group 2	6.73	.57	.50	.50	
Group 3	6.81	.57	.50	.50	
Group 4	6.93	.57	.50	.50	
Group 5	6.98	.57	.50	.50	
Group 6	7.08	.57	.50	.50	
Group 7	7.18	.57	.50	.50	
Group 8	7.31	.57	.50	.50	
Group 9	7.47	.57	.50	.50	
Group 1	6.31	.57	.50	.50	
Group 2	6.43	.57	.50	.50	
Group 3	6.51	.57	.50	.50	
Group 4	6.63	.57	.50	.50	
Group 5	6.68	.57	.50	.50	
Group 6	6.78	.57	.50	.50	
Group 7	6.88	.57	.50	.50	
Group 8	7.02	.57	.50	.50	
Group 9	7.17	.57	.50	.50	
Group 1	6.76	.57	.50	.50	
Group 2	6.88	.57	.50	.50	
Group 3	6.96	.57	.50	.50	
Group 4	7.08	.57	.50	.50	
Group 5	7.13	.57	.50	.50	
Group 6	7.23	.57	.50	.50	
Group 7	7.33	.57	.50	.50	
Group 8	7.47	.57	.50	.50	
Group 9	7.62	.57	.50	.50	

GENERAL BUILDING CONSTRUCTION

**TRUCK DRIVERS:**  
Group 1  
Group 2  
Group 3  
Group 4  
Group 5  
Group 6  
Group 7  
Group 8  
Group 9

**TRUCK DRIVERS (RESIDENTIAL CONSTR.):**  
Group 1  
Group 2  
Group 3  
Group 4  
Group 5  
Group 6  
Group 7  
Group 8  
Group 9

TRUCK DRIVERS (HEAVY CONSTRUCTION)

Group 1  
Group 2  
Group 3  
Group 4  
Group 5  
Group 6  
Group 7  
Group 8  
Group 9

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
	\$7.55	.25			
Zone 1	10.87	.53	1.00		.12
Zone 2	9.17	3%+.31	.385		.025
Zone 3	8.35	.20			.05
Zone 4	11.87	.53	1.00		.12

ROOFERS  
SHEET METAL WORKERS:

Zone 1  
Zone 2  
Zone 3  
Zone 4

SHEET METAL WORKERS ZONE DEFINITIONS

**Zone 1** - Bernalillo, Catron, Chavez, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Toos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.

**Zone 2** - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties

**Zone 3** - Holloman Air Force Base, White Sands and McGregor Ranges

**Zone 4** - Los Alamos County

SPRINKLER FITTERS  
SOFT FLOOR LAYERS:

Zone 1  
Zone 2

SOFT FLOOR LAYERS' ZONE DEFINITIONS

**Zone 1** - Dona Ana, Luna and Otero Counties

**Zone 2** - Statewide (excluding Dona Ana, Luna and Otero Counties)

SOUND INSTALLERS:

SOONSMAN  
Zone 1  
Zone 2  
Zone 3

TECHNICIANS  
Zone 1  
Zone 2  
Zone 3

SOUND INSTALLERS  
Zone 1  
Zone 2  
Zone 3

Zone 1	11.26	.65	.95		.08
Zone 2	7.23	.30	.10		.02
Zone 3	7.85	.35	.30		.02

Zone 1	10.10	.60	3%		1/2%
Zone 2	11.36	.60	3%		1/2%
Zone 3	13.89	.60	3%		1/2%
Zone 1	8.08	.60	3%		1/2%
Zone 2	9.34	.60	3%		1/2%
Zone 3	11.87	.60	3%		1/2%
Zone 1	6.57	.60	3%		1/2%
Zone 2	7.83	.60	3%		1/2%
Zone 3	10.36	.60	3%		1/2%

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL AND HEAVY CONSTRUCTION)

GROUP I

Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or up

GROUP II

Bus or taxi driver, dump or batch truck under 8 C.V.W.L.C.; flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 ton MDC.

GROUP III

Dump trucks (including all highway and off highway) 8 up to 16 C.V.W.L.C.; water, fuel or oil trucks less than 3,000 gal.; flat bed (bobtail) over 2 tons

GROUP IV

Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment; scissor truck; bulk cement bobtail 2 or 3 axles; semi-trailer driver (flat-bed or van single axle); forklifts 5 ton and over MDC; field equipment servicemen.

GROUP V

Dumper and dumpcrete driver; water, fuel or oil truck, 3,000 to 6,000 gal.; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI

Vacuum truck; dump trucks (including all highway and off-highway 15 up to 22 C.V.W.L.C.

GROUP VII

Transit mix or agitator semi or 4 axle equipment driver; flaberty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump trucks (including all highway and off-highway) 22 CY up to 35 C.V.W.L.C.; head field equipment servicemen.

GROUP VIII

Euclid diesel power turnarocker; terra cotta-DW10-DW20-LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster—lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandem); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.V.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX

warehouseman including material checker; cardex man; lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TEAMSTERS classifications not listed shall be paid a rate comparable to classifications listed.

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.35	.63	1.42		.16
11.55	.63	1.42		.16
13.20	.63	1.42		.16
11.98	.63	1.42		.16

LEAD BURNERS

AREA I  
AREA II  
AREA III  
AREA IV

LEAD BURNERS BASING POINT 6. AREA DEFINITIONSBASING POINT CITIES OR TOWNS:

Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clorvis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Rosillos, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth or Consequence.

AREA I

Shall include a distance of seven road miles inclusive beyond the city or town limits.

AREA II

Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of area I.

AREA III

Shall apply to all areas not within areas I or 2, or not within the specific areas.

AREA IV (SPECIFIC AREA)

Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOURTEENS

a - Includes \$0.07 contribution to the Occupational Health Fund.  
b - 1st 6 months - none; 6 months to 5 years, 28; over 5 years, 48 of basic hourly rate.  
c - Paid Holidays; A through F

PAID HOLIDAYS:

A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day  
E - Thanksgiving Day; F - Christmas Day.

SUPERSEDES DECISION

STATE: NEW YORK COUNTY: CHERUBUS  
 DECISION NO.: NY77-3116 DATE: DATE OF PUBLICATION  
 SUPERSEDES Decision No. NY77-3001 dated April 1, 1977 in 42 FR 17766  
 DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
ASBESTOS WORKER	112.15	.81	.35		.04
BOILERMAKERS	11.15	.90	1.25		.01
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS AND TILE SETTERS	9.70	.60	.50		
CARPENTERS, (BUILDING): Twp. of Chambers, Post Creek, Big Flats and Sagetown:	9.11	.80	1.00		.02
Carpenters	9.41	.40	1.00		.02
Millwrights and piledrivermen	9.77	.35	.50		.04
Remainder of County:	10.02	.35	.50		.04
Carpenters & soft floor layers	8.97	.40	.95	a	.025
Millwrights and piledrivermen	9.85	.35	.50	a	.045
CARPENTERS, (HEAVY & HIGHWAY): Twp. of Chambers, Post Creek, Big Flats and Sagetown	9.70	.50	.50		.05
Remainder of County	9.425	.495	.32	34+5+C	.02
CEMENT MASONS, (HEAVY & HIGHWAY)	6.50	.495	.32	34+5+C	.02
ELECTRICIANS	4.71	.35	.50		.01
ELEVATOR CONSTRUCTORS	8.96	.70	.92		.05
ELEVATOR CONSTRUCTORS' HELPERS	7.32	.45	.30		
ELEVATOR CONSTRUCTORS' HELPERS	7.52	.65	.30		.01
FRAGMENTARY	10.28	.40	.25	d	.01
GLAZIERS	10.75				
IRONWORKERS: Structural, ornamental and reinforcing					
LABORERS, (BUILDING): Laborers					
Mortar mixer (hand or machine for 3 or more men), jackhammer, pavement breakers, pipelayers (over 6'), gin buggy, work on scaffold, chain saw operator, and all other types of gas, electric and air tools					
LEAD WORKERS					

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LINE CONSTRUCTION:  
 Lineman  
 Cable splicer  
 Groundman digging machine op.  
 Groundman mobile equipment op.  
 Groundman truck driver  
 Groundman dynamite man  
 PAINTERS:  
 Brush  
 Structural steel  
 Swinging scaffold  
 Sootswain chair  
 Spray  
 Strush-roll epoxy  
 Spray-epoxy  
 FLUSSIERS AND STEAMFITTERS  
 ROOFERS  
 SHEET METAL WORKERS  
 SPRINKLER FITTERS

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.10	.65	34+.60	e		44
12.21	.65	34+.60	e		44
9.99	.65	34+.60	e		44
8.88	.65	34+.60	e		44
8.325	.65	34+.60	e		44
8.88	.65	34+.60	e		44
8.01	.35	.30			
9.01	.35	.30			
8.26	.35	.30			
8.26	.35	.30			
8.86	.35	.30			
8.56	.35	.30			
9.26	.35	.30			
10.40	.60	.80			.10
9.54	.69	1.00			.07
9.89	34+.60	.80			.08
11.88	.65	.95			

DECISION NO. NY77-3116

**HOLIDAYS:**

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

**FOOTNOTES:**

- a. Holidays: Independence Day and Labor Day.
- b. Holidays: A through F.
- c. Employer contributes 48 basic hourly rate for 5 years or more of service or 24 basic hourly rate for 6 months to 5 years of service as vacation pay credit.
- d. Holidays A through F; Washington's Birthday, Good Friday, X-Mas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holidays, and the regular schedule work day immediately preceding and following the holidays.
- e. Holidays: A through F; Good Friday, Washington's Birthday, Election Day for President of the United States and Election of Governor of New York State providing the employee works the day before and after the holiday.
- f. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve.

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LABORERS, (HEAVY AND HIGHWAY CONSTRUCTION):

- GROUP I
- GROUP II
- GROUP III
- GROUP IV

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H S W	Pensions	Vacation		
\$ 8.24	.50	.45		a	
8.44	.50	.45		a	
8.64	.50	.45		a	
8.84	.50	.45		a	

**LABORERS DEFINITIONS**

**GROUP I**

Laborers and driller helpers

**GROUP II**

Concrete aggregate-bin, mortar mixer, hand or machine vibrator gin, buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and airtool operators, bull float tamper and pipe-layers

**GROUP III**

Drillers, asphalt takers, stone or granite curb setters and acetylene torch operator

**GROUP IV**

Blasters, form setters, stone or granite curb setters

**PAID HOLIDAYS:**

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

**FOOTNOTE:**

a. Holidays A through F, providing the employee works the day before and after the holiday.

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POWER EQUIPMENT OPERATORS,  
(BUILDING CONSTRUCTION):  
GROUP I:

	Basic Hourly Rates	Fringe Benefits Payments		Education and/or App. Tr.
		H & W	Pensions	
A	11.45	.50	.50+.30	.10
B	11.70	.50	.50+.30	.10
C	11.95	.50	.50+.30	.10
D	12.20	.50	.50+.30	.10
E	12.70	.50	.50+.30	.10
F	13.20	.50	.50+.30	.10
G	13.70	.50	.50+.30	.10
H	14.20	.50	.50+.30	.10
GROUP II	11.45	.50	.50+.30	.10
GROUP III	11.27	.50	.50+.30	.10
GROUP IV	10.18	.50	.50+.30	.10

## POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION

## GROUP I

Cranes (cable and hydraulic, climbing and tower)

- A 121 ft. and under
- B 121 ft. and 151 ft.
- C 151 ft. and 201 ft.
- D 201 ft. and 251 ft.
- E 251 ft. and 301 ft.
- F 301 ft. and 351 ft.
- G 351 ft. and 401 ft.
- H 401 ft. and 451 ft.

## GROUP II

Air tigger, derrick, dredge, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson soper and similar type machine, fork-lift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, cross carrier (and similar types), three drum hoist (when all three drums are in use)

## GROUP III

A frame truck, backfilling machine, hoist (1 or 2 drums), barber green and similar typer machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar typer machines, bituminous spreading machine, post hole digger, bulldozer, carry all typer scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20

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## POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION (CONT'D)

## GROUP III (CONT'D)

Inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 CFM, concrete capacity 3 or less with more than 12000 CFM, but not to exceed 2000 CFM, concrete mixer, concrete placer, concrete pump, trowelover and similar types, crane-hoe-shovel 3/8 yd. capacity or less (factory rating), trowelover and similar types, dinky locomotive (all types), tower-mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler, Exception: single electric pumps up to and including 4 inches not be manned

## GROUP IV

Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float, Exception: single gasoline driven welding machines up to 300 amps need not be manned

## GROUP V

Truck crane oilers

## FOOTNOTES:

- a. Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

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**POWER EQUIPMENT OPERATORS,  
(HEAVY & HIGHWAY CONSTRUCTION):**

**POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D**

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
GROUP I	\$10.15	.90	.60	a	.10
GROUP II	9.82	.90	.50	a	.10
GROUP III	9.10	.90	.50	a	.10
GROUP IV	8.27	.90	.60	a	.10

**POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION**

**GROUP I**

Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), backtop plant (auto-mated), cableway, calisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8' or over), cranes, cranes & derricks (steel erection), draglines, dredges, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader 4 c.y. and over), head tower (laserman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed he shall be an oiler), tractor drawn belt type loader, truck crane, tunnel shovel

**GROUP III**

Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, black-top plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-boist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 165), concrete pump (under 8'), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolan plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive maintenance/engineer/greasman/welder, mizer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pumber, trencher, tuggor-boist, winch, winch cat

**GROUP III**  
A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweepet, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point

**GROUP IV**

Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (165 and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mauling machine, oiler parapet- (concrete or pavement grinder), power broom (towed), power beaterman, rewinus widener, shell winder, steam cleaner, tractor

**PAID HOLIDAYS:**

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

**FOURMORE:**

a. Holidays: A through F; providing the employee works the working day before and after the holiday.

SUPERSEDES DECISION

STATE: NEW YORK COUNTY: ORANGE  
 DECISION NO.: N177-3120 DATE: DATE OF PUBLICATION  
 Supercedes Decision No. N177-3068 dated July 1, 1977 in 42 FR 34220  
 DESCRIPTION OF WORK: Building Construction, (does not include single family  
 homes and garden type apartments up to and including 4 stories), Heavy and  
 Highway Construction.

DECISION NO. - N177-3116

TRUCK DRIVERS, HEAVY AND  
 HIGHWAY CONSTRUCTION:

- CLASS 1
- CLASS 2
- CLASS 3
- CLASS 4
- CLASS 5

Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation		
\$8.04	.65	.70	a	a	
8.09	.65	.70	a	a	
8.14	.65	.70	a	a	
8.29	.65	.70	a	a	
8.44	.65	.70	a	a	

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION

- CLASS 1  
 Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser
- CLASS 2  
 Tandems, batch trucks, mechanics and dispatcher
- CLASS 3  
 Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and concrete type vehicles, truck mechanic
- CLASS 4  
 Specialized earth moving equipment - ecclid type or similar off-highway equipment, where not self loaded, and straddle (cross) carrier
- CLASS 5  
 Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded

PAID HOLIDAYS:

- A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
- E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

- a. Holidays: A through F, provided the employee has worked the working day before and after the holiday.

Asbestos Workers  
 Boilermakers  
 Bricklayers:  
 All that portion bounded on the east by the Hudson River to the Woodbury Twp. line south of Bear Mt., thence along this line to the Tundo Twp. line, thence along this line to a point south of Lake Nonsuch, thence due west to the Lehigh-Hudson River R.R. line, thence northerly along this R.R. line to Maybrook, then northerly along the Penn Central R.R. line to the Ulster County line and along this line easterly to the starting point, the Hudson River. All that portion lying within these boundaries including the towns on the East side of the above named R.R. lines: Bricklayers, Cement Masons, Plasterers, and Stonemasons: (Heavy and Highway)  
 Starting at the junction of Ulster County, Sullivan County, and Orange County, along Ulster County line, southeast to the New York, New Haven, and Hartford Wisner, thence east to the top of the Bellville Mt. Range, thence southerly to the New Jersey State line, including the Towns of Warwick, New Milford, & Bellville: Bricklayers, Cement Masons, Plasterers, and Stonemasons: (Building) (Heavy and Highway)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation		
\$13.29	5%	10%	7 1/2%		.02
12.33	5%	15%			
9.95	1.10	1.10			
10.20	1.10	1.10			
10.00	.83	1.53			
10.25	.83	1.53			

DECISION NO. EMT-3120

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation	Education and/or App. Tr.	
9.97	1.10	.50	1.15+b	.155	
9.95	.60	.85	.55	.05	
10.00	8%		10%	1%	
10.60	.79	36+.75	.60	6%	
6.35	.75	1%	.30	.02	
10.12	.495	.32+c	b+d	.02	
7.59	.495	.32+c	b+d	.02	
5.66					
9.35	.495	.32+c	b+d	.02	
7.01	.495	.32+c	b+d	.02	
8.50	.495	.32+c	b+d	.02	
6.38	.495	.32+c	b+d	.02	

Carpenters:  
 Carpenters, Bridges, Dock and Wharf carpenters:  
 Twp. of Tunedo, Woodbury, Part of Cornwall, Monroe, Chester, Blooming Grove and Highlands  
 Carpenters, Filodrivenment and Dock Builders:  
 Remainder of County:  
 Electricians:  
 Twp. of Otisville, Middletown, Cochen, Florida, Service, Part Jarvis, Sparrow Bush, Monroe, Harmon, Southfield, Tunedo Lake and Tunedo:  
 Remainder of County:  
 Remainder of County:  
 For the repair, renovation, alteration and new installation of electrical systems in light commercial and industrial property, herein defined to include stores, gas stations, hotels and hotels  
 Elevator Constructors  
 Elevator Constructors helpers  
 Elevator Constructors helpers (probation)  
 Elevator Constructors Modernization  
 Elevator Constructors Modernization helpers  
 Elevator Constructor Repair  
 Elevator Constructor Repair helper

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DECISION NO. EMT-3120

Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation	Education and/or App. Tr.	
11.20	.66	1.66	.67	.01	
9.75	1.45	2.02	1.50		
8.30	1.00	1.00	e		
8.53	1.00	1.00	e		
8.95	1.00	1.00	e	.01	
9.02	1.05	.15	1.00	.01	
10.75	.40	.25	f	.01	

Ciaziars  
 Ironworkers:  
 Reinforcing, Ornamental, and Structural  
 Laborers: Building  
 Common Laborers, Mason Tenders, Mortar Mixers, Hoist Carriers, Scaffold Builders, Concrete men, Vibrator men, poured concrete, Roof work, wrecking, Walking Power Buggy men, Landscaper, Chipping Hammer (air or electric 1" and under)  
 Asphalt men, Pipelayers, Air or Electric Jackhammer, Powdermen, Gunite, Sandblasting, Air Trac, Barren, Chain Saw, Sliding Power Buggy, Vibro, Barco, Joy Tamper or similar, Joy or Jib Drills, Walk behind Moller, Wagon Drill, All Fork Lifts  
 Grade, Pipe, Concrete Clearing  
 Black Top, Drill, Paving etc., Blaster, Form Setter, Burner (acetylene torch), Ingersoll-Rand, Heavy Duty Circular Type HDSG, Drill Machines or equivalent, All wrecking work fifty feet or more above grade  
 Lathers  
 Leadburners

DECISION NO. NYTT-3120

DECISION NO. NYTT-3120

**LINE CONSTRUCTION:**  
 Linemen cable splicer helper & material man  
 Groundman digging machine operator  
 Groundman mobile equipment operator  
 Groundman truck driver and mechanic  
 Groundman dynamite man  
 Cable splicer  
**MARBLE SETTERS, TERRAZZO WORKERS AND TILE SETTERS:**  
 West Newburgh, Little Britain, Rock Tavern, Lagrange, New Hampton, Ridgeburg & Johnson to County lines and all areas inclusive south thereof County lines:  
 Marble setters, cutters  
 Marble setters' helpers  
 Terrazzo workers  
 Terrazzo workers' helpers  
 Terrazzo machine operator  
 Tile setters  
 Tile setters' helpers  
 That area in Orange County following within a 50 mile radius from Columbus Circle, NYC. (Arcad boundary line is just South of Newburgh; South of Maybrook; North of Goshen, South of Middletown; North of Johnson; North of Unionville

Plumbers and Steamfitters:  
 Twp., Villages, and Hamlets and/or portions thereof  
 Lakeville, Four Corners, Sterling Forest, Tuxedo, Tuxedo Park, Southfield, Arden, Newburgh Junction, Greenwood Lake, Monroe, Harriman, Woodbury Falls, Woodbury Station, Central Valley, and the Palisades Interstate Park and Bear Mountain Park  
 Remainder of County  
**Roofers:**  
 Pitch, Pitch built up  
 Asphalt Shingle  
 Asbestos, Slate and Tile, Slab, and Asphalt Builtup  
 Sheet Metal Workers  
 Soft Floor Layers  
 Sprinkler Fitters  
 Welders—receive rate prescribed for craft performing operations to which welding is incidental.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.10	.65	124.60	8	1/72
9.99	.65	124.60	8	1/72
8.88	.65	124.60	8	1/72
8.325	.65	124.60	8	1/72
8.88	.65	124.60	8	1/72
12.21	.65	124.60	8	1/72
10.00	1.13	1.19	h	
8.50	1.05		1.15	
9.10	1.09	1.50		
9.14	1.21	1.50		
7.68	.475			
8.50	.80	2.05		
7.50	.50	1.27		
10.45			1	
10.15			1	
10.50			1	
8.50	10%	.50		
9.50	10%	.50		
9.40	10%	.50		
9.50	10%	.50		

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
9.50	1.05	2.48	1.14	.10
10.36	14.4%	7%	6%	.10
10.65	1.00	1.65	3	.35
7.65	1.00	1.65	3	.35
10.15	1.00	1.65	3	.35
10.37	19%	17%	10%	.02
11.40	1.40	1.78	.70PK	.02
11.86	.65	.95		.08

DECISION NO. <u>RTT-3120</u>	Fringe Benefits Payments			Education and/or App. Tr.	
	Basic Hourly Rates	H & W	Pensions		Vacations
LABORERS: HEAVY & HIGHWAY CONSTRUCTION GROUP I	\$ 8.80	1.00	1.00	a	
GROUP II	9.05	1.00	1.00	a	
GROUP III	9.45	1.00	1.00	a	

ADDRESS:  
HEAVY & HIGHWAY CONSTRUCTION  
GROUP I  
GROUP II  
GROUP III

#### HEAVY AND HIGHWAY CONSTRUCTION

##### GROUP I

Laborer, pitman, flapman, chock tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barricades and all reflective type materials for traffic control

##### GROUP II

Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jib rig and joy drill op., power boggy op., gunnits and sandblasting, coal passers and other machine op., sprayer and nozzle men on mulching and seeding machines, all seeding and sod laying, all landscape work, grade checkers, all bridge work, walk behind self propelled power saw walk behind rollers and tamers of all types, wrecking laborers (including barman and burners), All sheeting and shoring coming under the laborers jurisdiction bit grinder, operator of form pin pullers and drivers, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man

##### GROUP III

Concrete finisher on highways, form setter, granite stone layer, ingersoll road heavy duty crawler - master type BMS or equivalent or any drill using a 4" or larger bit

HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

##### FOOTNOTE:

a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day; provided employee works one day in the calendar week in which the holiday falls and reports for work the first working day following the holiday.

DECISION NO. RTT-3120

##### PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

##### FOOTNOTES:

- Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Armistice Day, Columbus Day and Election Day.
- In the event of a death in the family of the member of the unit he shall be paid 3 days wages, family means husband, wife, mother, father, sister, brother or children. Wages are only paid on the condition that the member of the unit attends the funeral of the deceased.
- Employee contributes \$7.00 per day to Minuity Fund.
- Employee contributes 6.4% of basic hourly rate for 5 years or more service or 4.2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Election day shall be observed in accordance with New York State Law.
- Holidays: A through F; Washington's Birthday; X-Mas Eve; and Good Friday, providing employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.
- Holidays: A through F; Washington's Birthday, Election Day for President of the United States and Election of Governor of New York (provided employee works the day before and the day after the holiday).
- Holidays: New Year's Eve & X-Mas Eve.
- Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day, providing employee works any one of three days preceding or following the holiday.
- Two hours off with pay on General Election Day, provided the employee has received 4 hours pay that day.
- Employees employed on the last legal working day before Christmas Day and New Year's Day, and who report to work on such days, shall receive 3 hours pay.

DECISION NO. XXII-3120

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Positions	Vacation	
GROUP 1	\$15.31	7 1/2	15%	a	3%
GROUP 2	13.49	7 1/2	15%	a	3%
GROUP 3	12.61	7 1/2	15%	a	3%
GROUP 4	12.50	7 1/2	15%	a	3%
GROUP 5	12.27	7 1/2	15%	a	3%
GROUP 6	11.78	7 1/2	15%	a	3%
GROUP 7	11.49	7 1/2	15%	a	3%
GROUP 8	11.32	7 1/2	15%	a	3%
GROUP 9	11.27	7 1/2	15%	a	3%
GROUP 10	11.15	7 1/2	15%	a	3%
GROUP 11	11.10	7 1/2	15%	a	3%
GROUP 12	10.86	7 1/2	15%	a	3%
GROUP 13	10.86	7 1/2	15%	a	3%
GROUP 14	10.89	7 1/2	15%	a	3%
GROUP 15	9.95	7 1/2	15%	a	3%

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION

GROUP 1  
Helicopters pilot/engineer

GROUP 2  
Autograde-combination subgrader, base MTL spreader & base trimmer (OMI & similar type); autograde plater-trimmer-spreader-combination (OMI & similar types); autograde slip form paver (OMI & similar types); back booms (all types, including all combination hoe loaders); central power plants (all types); concrete paving machines; cranes (all types, including overhead & straddle travelling type); cranes, gantry, derricks - land or floating (building & heavy construction rate only); drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); graballs; grader, rago; helicopters co-pilot and communication engineer; jacks, screw air hydraulic power operated unit or console type (not hand jack or pile load test type); locomotive (large); sucking machines; pavers (21E and over); paver, resinous, Broymill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treeclobber with boom; trench machines

DECISION NO. XXII-3120

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 3  
Pump, staging

GROUP 4  
A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, snipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezercrete & similar types; conveyors, 125' & over; automobiles (hilo, loll, byster similar type equipment); forklifts; front end loaders (2yds but less than 5 yds); groove cutting machines (ride or type); heater planer; hoist (Chicago Booms); Fans, LeTourneau, DW's, Uhas, pumpcrete-unit type; pumpcrete machines, squeezercrete & concrete pumping; scrapers-LeTourneau, DW's Uhas; side booms; squeezercrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting)

GROUP 5  
Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or hoise cars (building and heavy construction rate only); roof hoists

GROUP 6  
Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop

GROUP 7  
Asphalt curbing machines; asphalt plant engineer; autograde tube finisher & texturing machine (OMI & similar types); autograde concrete machine (OMI & similar types); autograde curb trimmer & sidewalk shoulder, slip-form (OMI & similar types); barbeding machines (power); batchers, batching plant & crusher on site; belt conveyer or system; boilers and steam jennies (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-betrel, reomatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar);

DECISION NO. FVT-3120

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 2 (CONT'D)

drill doctor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe graders; graders and motor patrols; gunite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); loaders (motorized) - building & heavy construction rate only; ladderbar; lights, portable generating light plants; locomotive (disk type); mechanics; mixers (excepting paving mixers); motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compressor or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; post hole digger; rod bending machines (power); scales, power; sassan pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic

GROUP 8

Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building & heavy construction rate only

GROUP 9

Brooms & sweepers; bulldozer, D5 and over; fireman; sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractor, D8 & over; water and sprinkler trucks (used on job site or in conjunction with bob site)

GROUP 10

Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only

DECISION NO. FVT-3120

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY, HIGHWAY, ROAD, STREET AND SEWER CONSTRUCTION (CONT'D)

GROUP 11

Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only

GROUP 12

Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8

GROUP 13

Compressor (single); heaters (Wilson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 of less than 4 inch suction including submersible pumps); pumps, diesel engine & hydraulic (immaterial of power) - highway, road, street & sewer construction rate only; temporary heating plant (Wilson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance)

GROUP 14

Concrete spreaders, (small type) convey or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mucking equipment; road finishing machines (small type) - highway, road, street and sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only)

GROUP 15

Assistant engineer/oiler; mechanics helper; tire repair and maintenance

DECISION NO. NYTT-3120

**POWER EQUIPMENT OPERATORS - STEEL ERECTION**

**GROUP 1**  
Helicopters pilot/engineer

**GROUP 2**  
Cranes (all cranes - land or floating with booms - including jib, 140 feet and over above the ground); derricks (land or floating with booms including jib, 140 feet and over above the ground); helicopters co-pilot & communications engineer

**GROUP 3**  
Cranes (all cranes - land or floating with booms - including jib, less than 140 feet above the ground); derricks (land or floating, with booms including jib, less than 140 feet above the ground)

**GROUP 4**  
Aerial platform used as hoist; A-frame; cherry pickers - 5 tons and under (over 5 tons - crane rate applies); fork lifts; hoists (all types except Chicago Booms type); jacks (scree air hydraulic power operated unit or console type, not hand jack or pile load test type); side booms

**GROUP 5**  
Compressors (2 or 3 in battery); generators; welding machines (gas or electric converters of any type 2 or 3 in battery multiple welders) welding system multiple (rectifier transformer type)

**GROUP 6**  
Maintenance engineer

**GROUP 7**  
Fireman

**GROUP 8**  
Compressor (single); rod bending machines (power); welding machines (gas or electric converters of any type-single)

**GROUP 9**  
Assistant engineer/oller; straddle carrier

DECISION NO. NYTT-3120

\$20 per hour on machines where "Cat Head" or "Sheave Point" is at least 100 feet above ground level and less than 140 feet; 12¢ per hour on machines where "Cat Head" or "Sheave Point" is 140 feet, or over above ground level.

**FOOTNOTES:**

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 3 work days preceding the holiday and the first work day after the recognized holiday.

20-FEQ-2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or App. Tr.
	H & W	Pensions	Vacation		
\$17.18	7%	15%	4		3%
15.31	7%	15%	4		3%
14.40	7%	15%	4		3%
13.66	7%	15%	4		3%
11.88	7%	15%	4		3%
11.49	7%	15%	4		3%
11.34	7%	15%	4		3%
10.97	7%	15%	4		3%
10.41	7%	15%	4		3%

**POWER EQUIPMENT OPERATORS:**

**STEEL ERECTION**

- GROUP 1
- GROUP 2
- GROUP 3
- GROUP 4
- GROUP 5
- GROUP 6
- GROUP 7
- GROUP 8
- GROUP 9

DECISION NO. EYTT-3120

**FOOTNOTES:**

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Presidential Election Day, and Veterans Day provided the employee works any of the 3 days in the 5 day work week preceding the holiday and the first work day after the recognized holiday.

DECISION NO. EYTT-3120

**TRUCK DRIVERS**

Drivers on LeTourneau tractors, double barrel Euclids, Athey wagon and similar equipment (except when hooked to scrapers), low beds, I-Beam, pole trailers, road oil distributors, tire trucks tractors and trailers with 5 axle and over Equipment 25 yards and over up to and including 30 yard bodies cable dump trailers, powder and dynamite trucks Equipment up to and including 24 yards bodies, mixer trucks, dump crete trucks and similar types of equipment, fuel trucks and all other tractor trailers Ten wheelers, gresse trucks and tiller men Straight trucks Pick-up trucks used for hauling material parts escort man over the road Helpers

	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Positions	Vacations
10.00	.95	.95	a+b	
9.90	.95	.95	a+b	
9.70	.95	.95	a+b	
9.60	.95	.95	a+b	
9.50	.95	.95	a+b	
9.50	.95	.95	a+b	
9.40	.95	.95	a+b	

**PAID HOLIDAYS:**

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

**FOOTNOTE:**

- a. Holidays: A through F; Washington's Birthday; Election Day; Veteran's Day; Lincoln's Birthday, Election Day, Good Friday.
- b. 3 day bereavement pay (spouse, mother, father, mother in law, father in law, grandmother, grandfather, sister, brother, children, grandchildren,

DECISION #FA77-3121

SUPERSEDES DECISION

STATE: Pennsylvania  
 COUNTY: Lebanon  
 DATE: Date of Publication  
 DECISION NO.: FA77-3121  
 Supersedes Decision No. FA77-3031, dated April 8, 1977, in 42 FR 18339.  
 DESCRIPTION OF WORK: Building construction. (does not include single family homes and garden type apartments up to and including 4 stories).

	Fringe Benefits Payments				Basic Hourly Rates
	H & W	Pensions	Vacation	Education and/or App. Tr.	
Asbestos workers	.52	.90		.01	\$10.91
Boilermakers	1.05	1.00		.02	12.80
Bricklayers	.60	.57		.01	9.60
Carpenters	.40	.50		.03	10.14
Cement masons:					
West of Rte. 501	.55	.40			10.035
East of Rte. 501		.50			9.69
Electricians:					
Levo, East Hanover & Indian-		324.31		3/4%	10.36
town Gap Military Reservation	.65	32		1/2 of 1%	9.30
Remainder of County	.45	.35	K244+c	.02	10.20
Elevator Constructors	.545	.35	K244+c	.02	7.14
Elevator Constructors' Helpers	.545	.35			5.10
(Prob.)					
Elevator Constructors' Helpers					
Glassblowers:					
Twp. of Bethel, Jackson, Mill					
Creek, Lebanon, E. of Rte. 72,	.40	.30		.01	8.89
Heidberg & Richland	.40	.40		.01	9.59
Remainder of County	.84	1.36		.03	11.28
Ironworkers:					
Laborers:					
Unskilled	.40	.25			6.70
Air fuel & electric tool op.,					
pipelayers, power-buggy,					
pre-cast slab placers & sign-					
men, brick, stone, plasterers					
& cement masons tenders,					
machine mixers, stockers					
scaffold builders, plaster					
pump & conveyors, blasters,					
callison workers, wagon air					
track & diamond point drill					
operators, burning torches,					
green cutting machine, steam					
jenny & blasting	.40	.25		.01	6.80
Lathers	9.83	.15		.01	10.75
Lead burners	.40	.25			11.51
Line Construction:					
Linemen & Cable splicers	.40	32		3/4%	6.87
Groundmen	.40	32		3/4%	8.03
Winch truck operator	.40	32		3/4%	
Marble setters	.60	.48			\$9.60
Millwrights	.40	.50			11.29
Painters (East of Route 72)	.70	.55			8.95
Brush	.70	.55			10.00
Structural steel & spray	.70	.55			10.40
Highway bridges					
Painters (West of Route 72)	.26	.24			8.60
Brush	.26	.24			9.05
Structural steel	.26	.24			9.35
Spray	2.13	1.30	8		10.77
Piledriverman					
Pistons:					
East of Rte. 501	.53	.40			9.71
West of Rte. 501	.55	.60			9.25
Flumbers & Steamfitters:					
East of Rte. 501	.80	1.45			11.76
West of Rte. 501	.30	.85			10.85
Roofers:					
Annville, Cold Springs, East					
Hanover, North Annville,					
North Cornwall, North London-					
gerry, South Annville, South					
Londonberry, Union, West Corn-					
wall Twp.:					
Compositons	.60	.55			9.71
Remainder of County:					
Composition, damp & Water-					
proofing	.45	.25	f		10.60
Sheet metal workers	1.39	1.18			10.05
Soft floor layers	.40	.50			8.88
Sprinkler fitters	.65	.95			11.86
Stonemasons	.60	.57			9.60
Terrazzo workers	.50				8.375
Tile setters	.50				8.375
Truck Drivers:					
Pick-ups, dump, flat trucks to					
& including 2 highway license					
plates	d	e			7.99
Transit-mix, winch, trucks,					
tractor trailers, all types					
euclids, ross lumber carriers					
& trucks over 2 plates	d	e			8.24

Welders - rate for craft

**PAID HOLIDAYS:**

A-New Year's Day; E-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

**FOOTNOTES:**

- a. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 95 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.
- b. Employer contributes 6% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- c. Six paid holidays: A through F.
- d. \$71.37 per month for employees who have worked sixty hours or more during the month.
- e. \$41.95 per month for employees who have worked sixty or more hours during the month.
- f. Paid holidays: Election Day and Labor Day.
- g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day; and Christmas Day.

**POWER EQUIPMENT OPERATORS**

GROUP	Basic Hourly Rates	Fringe Benefits Payments			App. Tc.
		M & V	Pensions	Vacation	
GROUP 1	\$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.35	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

**GROUP 1:** Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

**GROUP 2:** All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers etc and over, all types overhead cranes, building hoists (double drum) graballs, making machines in tunnel, all front end loaders 3-4 c-y. and over, tandem scrapers, pipin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

**GROUP 3:** Conveyors, building hoists (single drum) scrapers and townships, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-4 cu. yds., mechanic-welders, motor patrols, drill halper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

**GROUP 4:** Welding machines, well points, compressors, pumps, beaters, farm tractors, farm line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

**GROUP 5:** Fireman, grasses truck

**GROUP 6:** Cillars and deck hands (personnel boats), core drill halper

**GROUP 7:** All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

**GROUP 7-A:** 150 ft. and over

**GROUP 7-B:** 200 ft. and over

**FOOTNOTES:**

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDES DECISION

STATE: Pennsylvania  
 Decision No.: PA77-3122  
 COUNTY: Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County  
 Supercedes Decision No. PA77-3030, dated May 21, 1976, in 41 FR 21137.  
 DATE: Date of Publication  
 DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

DECISION NO. PA77-3122

Laborers: (CONT'D)

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	M & V	Pensions	Vacation	
Asbestos workers	.52	.30		.01
Bollarmakers	1.05	1.00		.02
Bricklayers & block layers	.60	.57		.01
Carpenters	10.14	.40		.03
Cement masons	10.035	.55	.40	
Electricians	10.36	.56	34+.31	3/41
Elevator constructors	10.20	.545	.35	.02
Elevator constructors' helpers	7.14	.545	.35	.02
Elevator constructors' helpers (prob.)			47+4+4c	
			42+4+4c	
Glaziers	5.10			
Ironworkers, structural	9.39	.40	.40	.01
Ironworkers, ornamental	11.28	.84	1.36	.03
Ironworkers, reinforcing	11.28	.84	1.36	.03
Laborers:				
Air, fuel and electric tool operators and all other pneumatic and mechanical tools including blow-pipe and vacuum cleaners				
Pipelayers, power-baggy, precast slab placers and signal men	7.70	.30	.35	.05
Unskilled laborer	7.55	.30	.35	.03
Plaster and cement mason tenders, machine mixers, plaster pump and scaffold builders (excluding masonry scaffolding) for casual workers, blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine and steam tenny.				
Mason tenders, machine mixers, motorized stockers, scaffold builders (masonry), mortar pump, conveyors, mechanical cleaners and sandblasting for masonry and masonry equipment	8.02	.30	.35	.03
	8.12	.30	.35	.03
Nursery workers, window washers, floor scrubbers and watchmen	7.20	.35		.01
Leathers	9.01	.25		.01
Lead burners	10.75	.40		.01
Marble setters	9.73	.60		.03
Millwrights	11.29	.40		
Line Constructors:				
Lineman	10.81	.40		3/81
Groundmen	6.45	.40		3/81
Cable splicers	10.81	.40		3/81
Finch truck operator	7.54	.40		3/81
Painters:				
Brush	8.60	.26		.24
Structural steel	9.05	.26		.24
Spray	9.35	.26		.24
Tanks, bridges, stacks	9.85	.26		.24
Piledrivers	10.77	2.13		.12
Plasterers	9.25	.55		.01
Plumbers	10.85	.30		.12
Roofers:				
Composition	9.71	.60		.05
Sheet metal workers	10.05	1.39		.03
Soft floor layers	8.88	.40		.03
Sprinkler fitters	11.86	.65		.08
Steam fitters	10.85	.30		.12
Stone masons	9.60	.60		
Terrazzo Workers & Tile Setters	8.48	.60		
Truck Drivers:				
Truck drivers, building				
Pick-ups, dump, service trucks, flat trucks, to and including 2 highway license plates	7.99	d		
Transit Mix, winch trucks, tractor all types euclid, ross lumber and over 2 plates				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental	8.24	d		

POWER EQUIPMENT OPERATORS

GROUP	Basic Monthly Rates	Fringe Benefits Payments			Apr. 1,
		M & W	Vacation	Apr. 1,	
GROUP 1	\$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 218 and over, all types overhead cranes, building hoists (double drum) gradalls, mooring machines in tunnel, all front and loaders 3-1/2 c.y. and over, tandem scrapers, pipin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machines to the above

GROUP 3: Conveyor, building hoists (single drum) scrapers and tounapalls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch woth type tracher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, skill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, beaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tiraman (for power equipment), machines similar to above

GROUP 5: Piveman, grease truck

GROUP 6: Ollers and deck hands (personal boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

PAID HOLIDAYS: (Where applicable):  
New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;  
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Eight paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days prior to the holiday, and is available for work the days preceding and the holiday.
- b. Employer contributes 1/2 basic hourly rate for 5 years or more of service or 2/3 basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- c. Six paid holidays: A through F
- d. \$71.37 per month for employees who has worked sixty hours or more during the month.
- e. \$41.95 per month for employees who has worked sixty hours or more during the month.
- f. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day and Thanksgiving Day.

REVISION #PA77-3123

SUPPLEMENTAL DECISION

STATE Pennsylvania COUNTY Schuylkill  
 DECISION NO. PA 77-3123 DATE Date of Publication  
 SUPPLEMENTAL DECISION NO. PA 77-3034, dated April 15, 1977, in 42 FR 20100.  
 DESCRIPTION OF WORK: Building construction. (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Monthly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Asbestos workers	\$10.61	.50	.85	.01	
Boilerworkers	12.80	1.05	1.00	.02	
Bricklayers & stonemasons	9.30	.60	.95	.03	
Carpenters	10.14	.40	.90		
Cement masons	9.30	.60	.95		
Electricians					
North Meriden, South Meriden, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twp.	10.49	.73	.3%	.03	
Plumbers	9.30	.45	.3%	1/2%	
North Union, East Union, West Mahanoy, (excluding Exeterville Borough), Mahanoy, Delano, Kline, Bush, Ryan, Blythe, Schuylkill, Walter Rahn, East Brunswick and West Penn. Twp.	10.77	.55	30%, 25	.8	
Remainder of County	10.95	.35	35%, 20	.05	
Glaziers	8.89	.40	.30	.01	
Ironworkers	11.80	.84	1.36	.02	
Laborers:					
Unskilled laborers & window cleaners	6.70	.40	.25		
Operator of jackhammer, sawing, breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plaster-tenders, mason tenders, scaffold builders and removal & power buggies	6.80	.40	.25	.01	
Labors	7.25	.15		.01	
Lead Burners	10.75	.40	.25		

	Basic Monthly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Line Construction:					
Linemans, heavy equipment operator	\$10.30	.35	.7%		3/8%
Groundmen, track driver	7.28	.35	.7%		3/8%
Groundmen	6.97	.35	.7%		3/8%
Marble setters & terrazzo workers	9.30	.60	.95		.03
Millwrights	11.29	.40	.50		
Painters:					
Townsships of North Union, East Union, Union, Mahanoy, West Mahanoy, West Mahanoy, Butler, Kline, Delano, Ryan, Bush, Rahn West Penn, and City of Tamaqua	9.30	.50	.30		.05
Brush	9.56	.50	.30		.05
Tapers	10.56	.50	.30		.05
Basaroods					
Painters: (Remainder of County):					
Commercial and Industrial					
Brush	8.95	.70	.55		
Steel	10.00	.70	.55		
Spray	10.00	.70	.55		
Piledrivers	10.97	2.13	1.30	e	.12
Plasterers	9.30	.60	.95		
Plumbers	11.49	.40	.75		.04
Roofers:					
Berry Branch, Butler, Delano, East Brunswick, East Union, Elletts, Foster, Frally, Begins, Bobley, Kline, New Castle, North Union, Porter, Baha, Bailly, Bush, Fremont, Union, Upper Mahanoy, West Penn:					
Composition	9.65	.85	.80		
Remainder of County:					
Composition, damp waterproofing	10.60	.45	.25	d	
Slate, tile & asbestos	11.15	.45	.25	d	
Precast slab	11.40	.45	.25	d	
Sheet metal workers	11.12	.73	.60		.02
Soft floor layers	8.88	.40	.50		.03
Sprinkler Fitters	11.86	.65	.95		.08
Steamfitters	11.04	.65	.95		.04
Tile setters	8.30	.60	.95		
Truck drivers	6.23	b	c		
Welders - rate for craft					

POWER EQUIPMENT OPERATORS

Basic Monthly Rates	Fringe Benefits Payments			App. To
	M & W	Pensions	Vacation	
\$12.29	5.5%	9.5%	a	1.2%
12.00	5.5%	9.5%	a	1.2%
11.13	5.5%	9.5%	a	1.2%
10.36	5.5%	9.5%	a	1.2%
9.89	5.5%	9.5%	a	1.2%
8.98	5.5%	9.5%	a	1.2%
12.54	5.5%	9.5%	a	1.2%
12.79	5.5%	9.5%	a	1.2%
13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, excavators, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 218 and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-1/2 c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tounnypulls, spreaders, high or low pressure boilers, concrete pumps, well drillers ball-doers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, beaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. Holidays: A through F, plus Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
- b. Employer contributes \$58.37 per month to Health and Welfare fund.
- c. Employer contributes \$43.34 per month to Pension Fund.
- d. Paid Holiday: C
- e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.
- f. Paid Holidays: July 4th, Labor Day; Thanksgiving Day, and Good Friday.
- g. Employer shall contribute .12 per day per employee.

SUPPLEMENTAL DECISION

STATE: Pennsylvania  
 County: Northampton  
 Date of Publication: February 18, 1977, in 42FR 10268.  
 SUPERSEDES DECISION NO. PA77-3124, dated February 18, 1977, in 42FR 10268.  
 DESCRIPTION OF WORK: Building construction, (does not include single family homes and garden type apartments up to and including 4 stories).

DECISION NO. PA77-3124

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$10.91	.52	.90		.01
12.80	1.05	1.00		.02
10.69	.60	.66		.01
10.20	.44	.72		.01
10.19	.60	.60		.01
10.90	.35	374.80		.02
11.20	.62	3541.00		.02
8.89	.40	.30		.01
12.10	.84	1.36		
7.45	.35	.45		
8.20	.35	.45		
10.00				.12
10.02				.08
11.53	.15	.80		.05
10.05	1.39	1.18		.08
11.86	.65	.95		.01
10.02	.57	.92		.01
9.59	.60	.66		.01
8.47				

LABORERS COST'S  
 Mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work  
 Barbo Tamper Operator  
 Lathers  
 Lead burners  
 Line Construction:  
 Linemen  
 Cable splicer  
 Groundman  
 Winch truck operator  
 Millwrights  
 Painters (bechlebens):  
 Brush  
 Structural Steel  
 Spray  
 Painters, Remainder of County  
 Brush  
 Structural Steel  
 Spray  
 Piledrivers  
 Plasterers  
 Plumbers  
 Roofers, Composition, Slate & Tile  
 Roofers, helpers  
 Sheet metal workers  
 Sprinkler fitters  
 Steamfitters  
 Terrazzo workers  
 Truck Drivers:  
 Class I  
 Helper, Stake Body Truck (single axle), Dumpster

Asbestos workers  
 Boilermakers  
 Bricklayers & stonemasons  
 Carpenters  
 Cement masons  
 Electricians:  
 Allen, Hanover, Lehigh, Bath, Frenshburg, Bellertown and Bethlehem  
 Remainder of County  
 Glasiers  
 Ironworkers, structural  
 Laborers:  
 Laborers Window Cleaners  
 Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the same and cofferdams (below 10')  
 Wagon drills and men handling burning torches in the wrecking of buildings  
 Plaster and mason tenders, scaffolding  
 old boilers and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, grouting and molder-D and sandblaster helpers, power buggies, all floor harder and "cure" application shall be the work of the mason tender. All pump such as the concrete, plaster,

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
		H & W	Pensions	Vacations	
GROUP 1	\$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of booms, cableways, draglines, keystones, all types of derricks, trench shovels, trenching machines, hoist with two towers, pavers 2' or over, all types overhead cranes, building hoists (double drum) gradalls, stacking machines in tunnel, all front end loaders 3-1/2 cu. yd. and over, tandem scrapers, piffin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machines to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and turnpills, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, wall points, compressors, pumps, heaters, fan tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

TRUCK DRIVERS (CONT'D)

Class II	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacations	
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Concrete Type Vehicles Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	8.54				
Class III Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double Hitched Equipment, Straddle (Boss) Carrier, Low-Bed Trailers Soft floor layers	9.03 8.55	.44	.72	.45	

Welders - receive rate prescribed for craft performing operation to which welding is incidental

Paid Holidays (where Applicable):  
A-New Year's Day; B-Memorial Day; C-Independence Day;  
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:

- Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.
- 9 paid holidays. A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

SUPERSEDES DECISION

STATE: Pennsylvania  
 COUNTY: Berks  
 DATE: Date of Publication  
 DECISION NO.: PA77-3125  
 SUPERSEDES Decision No. PA77-3029, dated February 18, 1977, in 42 FR 10263.  
 DESCRIPTION OF WORK: Building Construction, (Does not include single family homes and garden type apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
\$10.91	.52	.90		.01
12.80	1.05	1.00		.02
9.30	.60	.75		
9.18	.52	.45		
9.69	.50	.50		
10.90	.35	3%+.80		.02
9.30	.45	3%		1/2 of 1%
10.49	.73	3%		.03
11.06	.545	.35	4%+1c	.02
7.75	.545	.35	4%+1c	.02
5.535				
8.89	.40	.30		.01
11.80	.84	1.36		.02
11.80	.84	1.36		.02
7.45	.40	.25		

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
7.73	.40	.25		
7.84	.40	.25		.01
9.53	.40	.15		.01
10.73	.40	.25		
11.51	.40	3%		3/4%
6.87	.40	3%		3/4%
11.51	.40	3%		3/4%
8.03	.40	3%		3/4%
9.70	.52	.45		
8.95	.70	.55		
10.40	.70	.55		
10.00	.70	.55		
10.77	2.13	1.30		
9.71		.53		.12
11.76	.80	1.45		.01
11.53	.15	.80		.11
10.60	.45	.25		
11.40	.45	.25		
11.15	.45	.25		
10.05	1.39	1.18		.05
9.18	.52	.45		.08
11.86	.65	.95		.11
11.76	.80	1.45		
9.30	.60	.75		
6.23		f		
6.18		f		

DECISION # PA77-3125

Laborers (Cont'd.)  
 Cofferdam, (below 10'), tunnel free air and muckers  
 Handling and using cutting or burning torches in the wrecking of buildings, plasterer tenders, scaffold building and removal for plasterers  
 Leathers  
 Lead Burners  
 Line Constructors:  
 Cable splicers  
 Groundmen  
 Linemen  
 Winch truck operator  
 Millwrights  
 Painters:  
 Brush  
 Bridge, tower, stacks & tanks  
 Spray and steel  
 Piledriverman  
 Plasterers  
 Plumbers  
 Roofers:  
 Albany, Maxstany and Windsor  
 Composition and slate  
 Remainder of County  
 Composition, damp & waterproof  
 Precast slab  
 Slate, tile & Asbestos  
 Sheet metal workers  
 Soft floor layers  
 Sprinkler Fitters  
 Steamfitters  
 Stone masons  
 Truck Drivers:  
 Truck drivers, helpers

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

**PAID HOLIDAYS (Where applicable):**  
 1-New Year's Day; 2-Memorial Day; 3-Independence Day; 4-Labor Day; 5-Thanksgiving Day; 6-Christmas Day.

**FOOTNOTES:**

- 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 15 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.
- Employer contributes 1/2 basic hourly rate for 5 years or more of service or 2/3 basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Six paid holidays: A through F
- Paid holiday: Election Day and Labor Day
- Employer contributes \$56.37 per month to a Health and Welfare.
- Employer contributes \$43.34 per month to a Pension Fund.

8. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

**POWER EQUIPMENT OPERATORS**

GROUP	Basic Hourly Rate	Fringe Benefits Payments		App. To
		H & W	Vacation	
GROUP 1	\$12.29	5.5%	9.5%	1.2%
GROUP 2	12.00	5.5%	9.5%	1.2%
GROUP 3	11.13	5.5%	9.5%	1.2%
GROUP 4	10.36	5.5%	9.5%	1.2%
GROUP 5	9.89	5.5%	9.5%	1.2%
GROUP 6	8.98	5.5%	9.5%	1.2%
GROUP 7	12.54	5.5%	9.5%	1.2%
GROUP 7-A	12.79	5.5%	9.5%	1.2%
GROUP 7-B	13.03	5.5%	9.5%	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 218 and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-1/2 c.f. and over, tandem scrapers, pippin type backhoes, boat Captain's hatch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tounspulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

**FOOTNOTES:**

1. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDED DECISION

STATE: Pennsylvania  
 COUNTY: Lycoming  
 DECISION NUMBER: PA77-3126  
 DATE: Date of Publication  
 Supersedes Decision No. PA77-3032, dated March 25, 1977, in 42 FR 16372.  
 DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

DECISION NO.: PA77-3126

Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	\$10.20				
PILINGMEN	10.77	2.13	1.30	.20	.12
PLUMBERS	10.56	.69	.50		.05
ROOFERS & KETTLEWORKERS	9.65	.85	.80		
SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS	8.88	.40	.50		.03
SPRINKLER FITTERS	11.86	.65	.95		.08
STEAMFITTERS	10.56	.69	.50	.20	.05

WELTERS - rate for craft

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

- Five Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer.
- Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Six paid holidays: A through F.
- Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day, Presidential Election Day; Veterans' Day and Thanksgiving Day.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
Asbestos workers	\$10.70	.65	.60		.01	
Boilermakers	12.80	1.05	1.00		.02	
Bricklayers & stonemasons	9.75	.65	.50		.015	
Carpenters	10.14	.40	.50		.03	
Cement masons	9.45	.50	.50		.02	
Electricians	9.48	.50	.35	.60	.02	
Elevator Constructors	10.20	.545	.35	.42	.02	
Elevator Constructors' Helpers	7.00	.545	.35	.42	.02	
Elevator Constructors' Helpers (Prob.)	5.00	.84	1.36		.03	
Ironworkers	11.28					
Labors:						
Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	7.20	.40	.35			
Mason tenders, operators of jacksamers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12"), non-metallic pipe layers, plaster tenders, mortar men (mixed by hand), handling & using cutting or boring torches in the wrecking of building						
Lathers	7.35	.40	.35		.01	
Lead Burners	9.825		.20		.01	
Line Constructors:	10.75	.40	.25			
Linemen & Cable Splicers	10.30	.35	.32		3/8%	
Winch truck drivers	7.28	.35	.32		3/8%	
Groundmen	6.97	.35	.31		3/8%	
Millwrights	11.29	.40	.50		.03	
Painters:						
Brush	9.30	.50	.30		.05	
Tapers	9.56	.50	.30		.05	
Hazardous	10.56	.50	.30		.05	

POWER EQUIPMENT OPERATORS

	Basic Monthly Rates	Fringe Benefits Payments			App. St.
		H & V	Pensions	Vacation	
GROUP 1	\$12.29	5.5%	9.5%	a	1-26
GROUP 2	12.00	5.5%	9.5%	a	1-26
GROUP 3	11.13	5.5%	9.5%	a	1-26
GROUP 4	10.36	5.5%	9.5%	a	1-26
GROUP 5	9.89	5.5%	9.5%	a	1-26
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GROUP 7-B	13.03	5.5%	9.5%	a	1-26

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 218 and over, all types overhead cranes, building hoists (double drum) gradalls, marking machines in tunnel, all front end loaders 3-4 c-y. and over, tandem scrapers, pipin type backhoes, boat Captains, hatch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machines to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and turnspalls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch wick type trencher, all loaders under 3-4 c. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, beaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

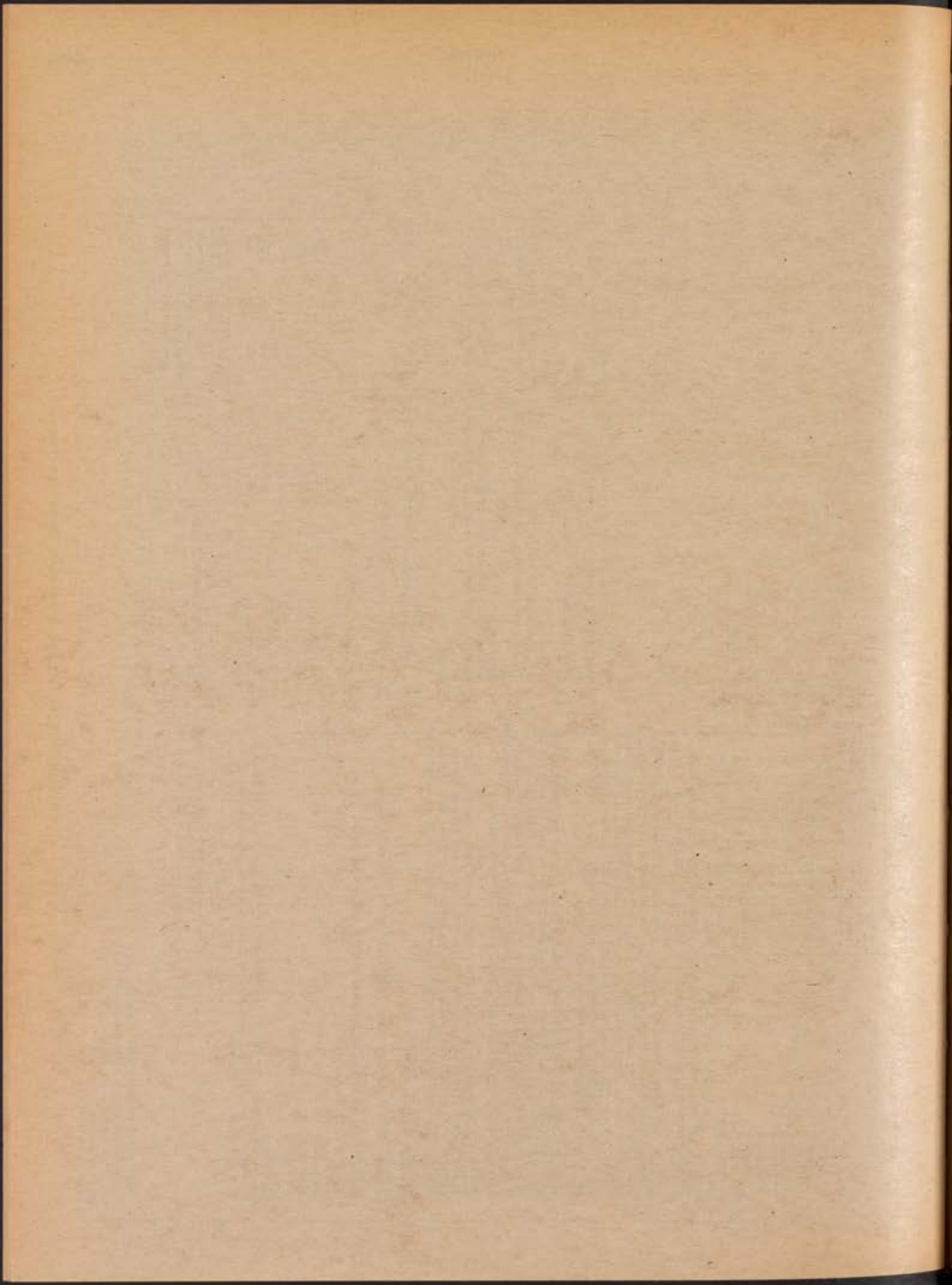
GROUP 7-A: 150 ft. and over

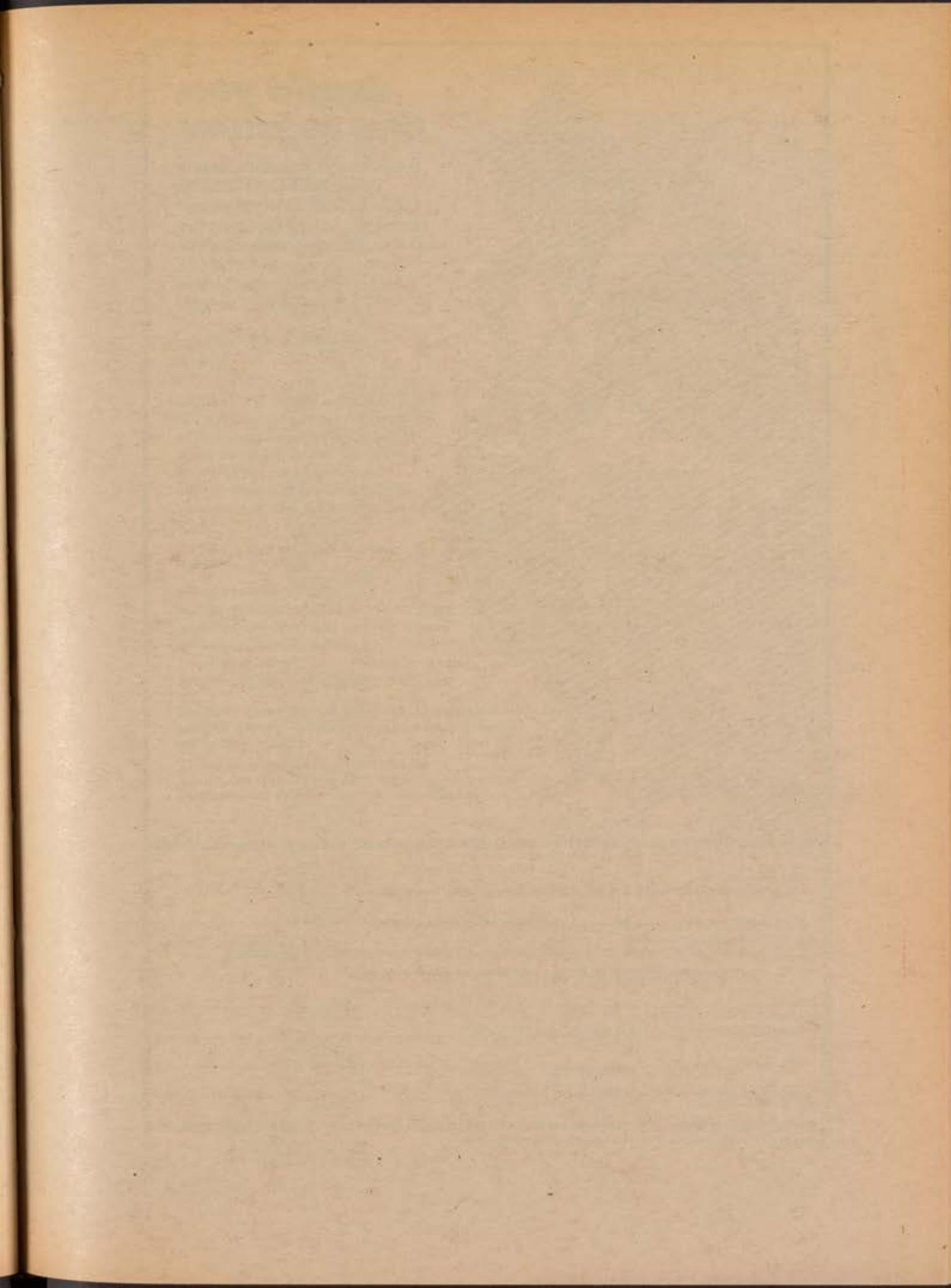
GROUP 7-B: 200 ft. and over

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc.77-26222 Filed 9-8-77; 8:45 am]







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