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THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
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	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.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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 State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Secretary to the Director, Management Operations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(31) is added as set out below:

§ 213.3304 Department of State.

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

(31) One Secretary to the Director, Management Operations.

* * * * *

(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.77-26870 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary to Private Secretary to the Executive Assistant to the Secretary; (2) excepts the following positions under Schedule C because they are confidential in nature: One position of Private Secretary to the Assistant Deputy Secretary, one position of Confidential Assistant to the Director of Agricultural Economics, and one position of Confidential Assistant to the Administrator (Food Safety and Quality Service).

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(a)(8), (n)(4), (v)(2) are amended, and (c)(15) is added as set out below:

§ 213.3313 Department of Agriculture.

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

(8) One Private Secretary to the Executive Assistant to the Secretary.

* * * * *

(c) *Office of the Deputy Secretary.* * * *

(15) One Private Secretary to the Assistant Deputy Secretary.

* * * * *

(n) *Agricultural Economics.* * * *

(4) Three Confidential Assistants to the Director.

* * * * *

(v) *Food Safety and Quality Service.* * * *

(2) Three Confidential Assistants to the Administrator.

(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.77-26868 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Selective Service System

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This reestablishes the position previously entitled Confidential Assistant to the Director under Schedule C because it is confidential in nature; and changes the title of the position to Administrative Assistant to the Director, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3346(a) is added as set out below:

§ 213.3346 Selective Service System.

(a) One Administrative Assistant to the Director.

(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.77-26869 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Agency for International Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant to the Assistant Administrator for Intergovernmental and International Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3368(k) is added as set out below:

§ 213.3368 Agency for International Development.

* * * * *

(k) *Office of the Assistant Administrator for Intergovernmental and International Affairs.* (1) One Confidential Assistant to the Assistant Administrator.

(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.77-26871 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C the following positions because they are confidential in nature: One position of Confidential Assistant to the Assistant Secretary (International Security Affairs), and one position of Staff Assistant to the Director, Defense Civil Preparedness Agency.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(94) is added and (e)(5) is amended as set out below:

§ 213.3306 Department of Defense.

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

(94) One Confidential Assistant to the Assistant Secretary (International Security Affairs).

* * * * *

(e) *Defense Civil Preparedness Agency.* * * *

(5) Three Staff Assistants to the Director.

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

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

[FR Doc.77-26958 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Administrator is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3318(a)(6) is added as set out below:

§ 213.3318 Environmental Protection Agency.

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

(6) One Special Assistant to the Deputy Administrator.

(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.77-26959 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Commissioner for Elementary and Secondary Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316(c)(16) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

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

(16) One Special Assistant to the Deputy Commissioner for Elementary and Secondary Education.

(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.77-26960 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Assistant Secretary for Policy Development and Program Evaluation is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(i)(10) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.* * * *

(10) One Special Assistant to the Deputy Assistant Secretary for Policy Development and Program Evaluation.

(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.77-26961 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C one position of Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312(a)(5) is amended as set out below.

§ 213.3312 Department of the Interior.

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

(5) Six Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and 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.77-26962 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Associate Administrator for Minority Small Business, Small Business Administration because the position is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

Dean Bollman, Civil Service Commission, 202–632–7676.

Joe Maas, Director of Personnel, Small Business Administration, 202–653–6780.

Accordingly, 5 CFR 213.3332(dd) is added as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(dd) Associate Administrator for Minority Small Business.

(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.77-26956 Filed 9-15-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary (Steno) to the Special Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3394(a)(48) is added as set out below:

§ 213.3394 Department of Transportation.

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

(48) One Secretary (Steno) to the Special Assistant to the Secretary.

(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.77-26963 Filed 9-15-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 110]

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 18–24, 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 18, 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.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons has improved for this week. Average f.o.b. price was $6.99 per carton the week ended September 10, 1977, compared to $6.95 per carton the previous week. Track and rolling supplies at 120 cars were down 15 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be 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 rulemaking 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 13, 1977.

§ 910.410 Lemon Regulation 110.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 18, 1977, through September 24, 1977, is established at 215,290 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 15, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural and Marketing Division.

[FR Doc.77-27224 Filed 9-15-77;11:39 am]

[Bartlett Pear Reg. 12, Amdt. 1]

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Minimum Grade, Size and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through June 30, 1978, current minimum grade, size and container requirements applicable to shipments of fresh Bartlett pears grown in Oregon (except the Medford District) and Washington. Unless extended, the regulation would expire September 16, 1977. This action is necessary to assure that pears shipped will be of suitable quality and size in the interest of consumers and producers. Several containers and packs are authorized to reflect trade preferences and needs.

EFFECTIVE DATE: August 1, 1977, through June 30, 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: Notice was published in the August 19, 1977, issue of the FEDERAL REGISTER (42 FR 41866) that consideration was being given to a proposal by the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice provided that all written comments in connection with the proposal be submitted not later than September 5, 1977. None were received.

Bartlett Pear Regulation 12 is currently effective during the period August 1, 1977, through September 15, 1977. This regulation specifies grade and size requirements for fresh Bartlett pears grown in Oregon, except the Medford District, and Washington. The requirements are that Bartlett pears, other than Red Bartlett pears, when packed in any of the authorized containers except the western lug or containers of 14–15 pounds net weight, shall grade at least U.S. No. 1 and be not smaller than 165 size except such pears grading U.S. No. 2 may be shipped if they are 150 size or larger.

Red Bartlett pears shall grade at least U.S. No. 1 and be not smaller than 180 size except such pears grading U.S. No. 2 may be shipped if they are 165 size or larger.

Bartlett pears of any variety packed in the western lug must grade at least U.S. No. 2 and be not smaller than 2¼ inches in diameter, except that pears may be handled in such container which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks or frost, if the shape of the pear is such that it will cut at least one good half.

Bartlett pears of any variety packed in containers of 14–15 pounds net weight must grade at least U.S. No. 2 and be at least 2⅛ inches in diameter, except that pears may be handled in such con-

tainers if they grade Washington C Grade and are not smaller than 2⅜ inches in diameter. Several containers and packs are prescribed.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. The extension of the effective period of Bartlett Pear Regulation 12 is designed to provide for orderly marketing in the interest of producers and consumers consistent with the objectives of the act. Committee reports indicate that fresh shipments of Washington-Oregon Bartlett pears will total about 2.4 million standard box equivalents in 1977, compared to 1.9 million standard box equivalents in 1976. The amendment is consistent with the quality and size combination of the estimated crop of Washington-Oregon Bartlett pears.

After consideration of all relevant material presented, including the proposal set forth in the notice, the recommendations submitted on July 8, 1977 by the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and order, and other available information, it is hereby found that regulation of Oregon-Washington Bartlett pears, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of Oregon-Washington Bartlett pears are currently in progress and the regulation should continue to be applicable to all such shipments in order to effectuate the declared policy of the act; (2) the provisions of the amendment are identical to those specified in the notice; and (3) compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of Bartlett Pear Regulation 12 (§ 931.312; 42 FR 38578) are revised to read as follows:

§ 931.312 Bartlett Pear Regulation 12.

(a) During the period August 1, 1977, through June 30, 1978, no handler shall handle any lot of Bartlett pears, except Bartlett pears grown in the Medford District, unless such pears meet the following applicable requirements or are handled in accordance with paragraphs (a) (4) or (5) of this section:

(1) *Minimum Grade and Size.* (i) Bartlett pears of varieties other than Red Bartletts, when packed in the standard western pear box, the "L.A. lug", or their carton equivalents, in halfcartons (containers with inside dimensions of 19¼ x 11½ x 5½ inches), in master containers containing overwrapped consumer packages of pears, or in "tight-filled" containers shall be of a size not smaller than 165 size and shall grade at least U.S. No. 1: *Provided*, That Bartlett pears of such varieties may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 150 size. Red Bartlett variety pears, when packed in any of the containers specified in this subdivision, shall be of a size not smaller than 180 size and shall grade at least U.S. No. 1: *Provided*, That pears of such variety may be handled in such containers if they grade at least U.S. No. 2 and are of a size not smaller than 165 size;

(ii) Bartlett pears of any variety, when packed in the "western lug", shall grade at least U.S. No. 2 and be not less than 2¼ inches in diameter: *Provided*, That such pears of any variety which fail to meet the requirements of U.S. No. 2 grade only because of serious, but not very serious, damage caused by hail marks and/or frost may be shipped if the shape of the pear is such that it will cut at least one good half; and

(iii) Bartlett pears of any variety, when packed in containers containing at least 14 pounds but not more than 15 pounds net weight, shall grade at least U.S. No. 2 grade and measure not less than 2⅛ inches in diameter: *Provided*, That such pears may be handled in such containers if they meet the minimum requirements of Washington C Grade and are not less than 2⅜ inches in diameter.

(2) *Pack or Container Requirements.* Bartlett pears of any variety shall be packed in one of the following types of containers:

(i) "Standard western pear box" or "L.A. lug" or their carton equivalents;

(ii) "Western lug" or containers having a capacity equal to or greater than said lug;

(iii) "Half-carton" containers;

(iv) Containers of at least 14 pounds but not more than 15 pounds net weight;

(v) "Tight-filled" containers; or

(vi) Master containers containing overwrapped consumer packages.

(3) *Special inspection requirements for minimum quantities.* During the aforesaid period any handler may ship on any conveyance up to, but not in excess of, an amount equivalent to 200 "standard western pear boxes" of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) *Special purpose shipments.* Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55.

(5) Notwithstanding any other provision of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph and of §§ 931.41 and 931.55:

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds net weight of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" on letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1", "U.S. No. 2", and "size" shall have the same meaning as when used in the United States Standards for Summer and Fall Pears (7 CFR 51.1260–51.1280); "150 size", "165 size", and "180 size" shall mean that the pears are of a size which pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said United States Standards, 150, 165, or 180 pears, as the case may be, in a standard western pear box (inside dimensions 18 inches by 11½ by 8½ inches); the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration according to approved and recognized methods; the term "master container" shall mean those containers containing overwrapped consumer packages of pears; the term "very serious damage" shall mean any injury or defect which very seriously affects the appearance or the edible or shipping quality of the pears, "Washington C Grade" shall have the same meaning as when used in the State of Washington Department of Agriculture Permanent Order 103 (Effective November 10, 1966); the term "Western lug" shall mean a container with inside dimensions of 18 by 11½ by 7 inches and the term "L.A. lug" shall mean a container with inside dimensions of 16⅛ by 13½ by 5¾ inches.

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

Dated: September 13, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-26985 Filed 9-15-77;8:45 am]

Title 15—Commerce and Foreign Trade

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

LIMITED REVISION OF EXPORT LICENSE APPLICATION PROCESS

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations are amended to delete all requirements for the use of Form DIB–623P, Application Processing Card. This

amendment will simplify the application process and reduce work required of the exporter in submitting applications.

EFFECTIVE DATE: September 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (202–377–4196).

SUPPLEMENTARY INFORMATION: This revision eliminates all requirements for use of Form DIB–623P, Application Processing Card, in order to simplify the application process and reduce work required of the exporter in submitting applications.

Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are amended as follows:

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

1. In § 372.4, paragraph (a) is revised, paragraph (a)(5), excluding "Note", is deleted, and the second sentence of (b) is deleted. As revised, paragraph (a) reads as follows:

§ 372.4 How to apply for a validated license.

(a) *Form and Manner of Filing*—(1) *Application Form.* An application for a validated license must be submitted on Form DIB–622P, Application for Export License. Since January 1, 1976, only Forms DIB–622P revised March 1975 or later are acceptable. Earlier versions will be returned without action. An application that omits essential information, or is otherwise incomplete, will be returned without action to the applicant. (See § 370.12 for instructions on obtaining forms.)

* * * * *

PART 373—SPECIAL LICENSING PROCEDURES

§ 373.2 [Amended]

2. Paragraph (c)(2)(i) of § 373.2 is deleted and reserved.

§ 373.3 [Amended]

3. Paragraphs (d)(2)(i) and (d)(3)(i) are deleted and reserved.

4. By revising § 373.5(d)(1) to read as follows:

§ 373.5 Periodic Requirements (PRL) License.

* * * * *

(d) *Application Procedure*—(1) *Application Form.* An application for a PRL Licensee shall be prepared and submitted on Form DIB–622P, Application for Export License, in accordance with instructions contained in § 372.4(a), except as modified below.

5. By revising § 373.6(b)(1) to read as follows:

§ 373.6 Time Limit (TL) License.

* * * * *

(b) *Preparation of a TL License Application*—(1) *Application form.* An application for a Time Limit License shall be prepared and submitted on an Application for Export License, Form DIB–622P, in accordance with instructions in § 372.4(a), except that the applicant shall: * * *

§ 373.7 [Amended]

6. By deleting and reserving §§ 373.7(d)(1)(ii)(*a*) and 373.7(d)(1)(iv)(*a*).

PART 379—TECHNICAL DATA

§ 379.5 [Amended]

7. By amending § 379.5 as follows:

Section 379.5(a)(2) is deleted, and § 379.5(a)(3) is renumbered as § 379.5(a)(2).

Section 379.5(c) is deleted and reserved.

(Sec. 4 Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization order 10–3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46–1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46–2, dated November 17, 1975, 40 FR 59761 (1975) as amended.)

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

[FR Doc.77–27027 Filed 9–13–77;3:39 pm]

Title 16—Commercial Practice

CHAPTER I—FEDERAL TRADE COMMISSION

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Two-Party Open End Consumer Credit Contracts

AGENCY: Federal Trade Commission.

ACTION: Modification of exemption from trade regulation rule; denial of proposed permanent exemption—Forty-five day extension of exemption.

SUMMARY: On April 14, 1977 the Commission issued a limited exemption from certain requirements of the Trade Regulation Rule concerning the Preservation of Consumers' Claims and Defenses (42 FR 19487), for two-party open end consumer credit contracts that were executed before August 1, 1977 and do not involve the use of negotiable instruments or waivers of claims and defenses. That exemption was subsequently extended for a period of 45 days beyond August 1, 1977 (42 FR 40426). The Commission when it issued the exemption also invited comment on the exemption issued and on a proposed, permanent exemption.

Based on its review of the comments received, the Commission has decided to modify the exemption so that the definitions make it clear that "30 day accounts", which do not allow the consumer the option of paying in installments, fall within the exemption issued. The Commission has also carefully reviewed the record and has decided that the arguments and data presented by commenters do not support the issuance of a permanent exemption. The Commission is however, further extending the limited exemption for another 45 days beyond September 14, 1977. Thus, the Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Walter Diercks, Deputy Assistant Director, Division of Compliance, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202–254–9491).

DATES: The Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

SUPPLEMENTARY INFORMATION: Section 433.2(a) of the Trade Regulation Rule on Preservation of Consumers' Claims and Defenses requires that a short Notice be included in all consumer credit contracts used by sellers. The required Notice expressly preserves the consumers' right to assert against any third party which subsequently acquires the contract any legally sufficient claims and defenses that the consumer may have against the seller.

On April 14, 1977 (42 FR 19847) the Commission issued a limited exemption from the Rule for two-party open end consumer credit contracts that were executed before August 1, 1977 and do not involve the use of negotiable instruments or waivers of claims and defenses. The Commission subsequently extended the exemption for a period of 45 days beyond August 1, 1977 (42 FR 40426). The Commission is further extending its limited exemption for an additional 45 day period. Thus, as of November 1, 1977 the Rule will apply to all consumer credit contracts taken or received by sellers.

The Commission also, in its April 14 1977 FEDERAL REGISTER Notice, invited interested parties to comment on the exemption, as issued, as well as a permanent exemption proposed in a petition filed by the National Retail Merchants Association (NRMA) and the American Retail Federation (ARF). The proposed exemption would have applied to two-party open end consumer credit contracts which do not involve the use of negotiable instruments or waivers of claims and defenses. Further, upon transfer of the contract, the Notice required by the Rule would become a term of the consumer credit contracts.

Twenty-six comments were received by the Commission in response to its April 14, 1977 FEDERAL REGISTER Notice. Industry commenters basically argued that the Commission should issue the broader exemption proposed by the National Retail Merchants Association (NRMA) and the American Retail Federation (ARF) in their petitions for exemption. Industry commenters argued that because the proposed exemption is confined to contracts that are not negotiable and do not contain waiver provisions, and because they would agree to include the required Notice in the event of transfer, consumers would receive equivalent protections. The National Consumer Law Center objected to the issuance of any exemption for two-party credit contracts.

After analyzing the views, arguments and data, the Commission has decided that the exemption, as issued, should be slightly modified and, further, that the petitions submitted by NRMA and ARF should be denied.

In denying the NRMA/ARF petitions the Commission carefully weighed the costs of prospective compliance with the Rule against the potential for consumer injury that might result from exempting two-party open end consumer credit contracts from the Rule. Major compliance costs put forth by industry commenters were those costs associated with disposing of obsolete inventories of forms, typically a six-month supply, and reprinting new forms—a total of $3 million. The Commission decided that the costs of prospective compliance, especially in light of the extension of the exemption through October 31, 1977, would be substantially less than $3 million and further that these costs did not outweigh the potential for consumer injury that might result if the exemption were extended permanently. The potential for consumer injury stems mainly from the state laws that may operate to cut off consumers' claims and defenses despite non-negotiability and the absence of a waiver. Several commenters conceded that certain state laws may have such an effect. The Commission has further reviewed these state laws and determined that the uncertainties of the state laws of assignment suggests the desirability of denying the proposed permanent exemption.

In order to give all sellers an adequate opportunity to come into compliance with the Rule, the Commission is extending its limited exemption for an additional 45 days beyond September 14, 1977. Thus, the Rule will apply to all consumer credit contracts taken or received by sellers after October 31, 1977.

The Commission is also modifying 16 CFR 433.3(b)(3), the definition of "open end credit," to track the language of 202.2(w) of Federal Reserve Board Regulation B, as amended March 23, 1977 (12 CFR Part 202), to include so-called "30 day accounts," extensions of credit which do not allow the consumer the privilege of paying in installments, within the exemption, issued on April 14, 1977.

The primary purpose of the exemption, as issued, was to avoid costs involved in modifying existing two-party open end credit agreements. The Commission decided that there was no justification for distinguishing "30 day accounts" from other two-party open end credit contracts that are exempted through October 31, 1977.

Accordingly, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part I, Subparts B and C of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, et seq., and 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedures), the Commission hereby modifies §§ 433.3(a) and 433.3(b)(3) of 16 CFR Part 433:

§ 433.3 Exemption of sellers taking or receiving open end consumer credit contracts before November 1, 1977, from requirements of § 433.2(a).

(a) Any seller who has taken or received an open end consumer credit contract before November 1, 1977, shall be exempt from the requirements of 16 CFR Part 433 with respect to such contract: *Provided*, The contract does not cut off consumers' claims and defenses.

(b) Definitions. The following definitions apply to this exemption: * * *

(3) "Open end credit": Consumer credit extended pursuant to a plan under which a creditor may permit an applicant to make purchases or make loans from time to time directly from the creditor or indirectly by use of a credit card, check or other device as the plan may provide. The term does not include negotiated advances under an open end real estate mortgage or a letter of credit.

* * * * *

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER CALVIN J. COLLIER

Commissioner Collier dissented from the Commission's decision to deny the permanent exemption, stating:

Although I agree with the Commission's decision to grant a further temporary exemption, I dissent from its decision to refuse a permanent (conditional) exemption from the "Holder-in-Due-Course Rule"[1] for open-end credit and 30-day accounts. I would grant such an exemption where:

The debt instrument is not a negotiable instrument;

It does not contain a waiver or limitation of consumer claims or defenses; and

It is not transferred, sold, pledged or assigned.

This exemption would require the addition of the notice prior to any subsequent assignment.

By its terms, the exemption would unquestionably provide the same measure of consumer protection as the rule itself. The rule has relevance only where obligations are assigned to third persons; and, among other things, the exemption would be unavailable if an assignment were made. The possibility for lesser consumer protection can therefore arise only if the exemption is exceeded and the rule is violated. Conversely, neither the rule nor the exemption is violation-proof, although the prospect of substantial civil penalties and litigation expenses, far in excess of the likely profit from violating the rule (with or without the exemption), should hold in check the risks of this behavior.

The central issue, in my view, is whether the exemption will make it significantly easier to both violate the law and get away with it. An affirmative answer, it seems to me, requires a showing that: (1) Detection of law violations will be more difficult; (2) the cutting off of consumer claims or defenses will be more likely; and (3) sellers and assignees will perceive these advantages as sufficiently attractive to offer a premium price for these consumer obligations. Some discussion on each of these conditions is required.

At the outset, however, it is important to note that the failure to grant an exemption will add to the costs of supplying credit. The costs in wasted forms alone are estimated to be between $0.5 million and $3 million, depending on various assumptions.[2] There are also the intangible costs of aggravation that invariably attend compliance with the latest government regulatory command. Finally, the exemption proposed would reduce the inevitable costs of consumer confusion that surely will result when a consumer applying for an open-end or 30-day account reads the required notice; inquires with a raised eyebrow whether the seller plans to assign his obligation to a third party; is told, "no"; asks then what the reason for the notice is; and is told that it serves no purpose except that it is required by law. The Commission can ill afford to incur unnecessary costs of this kind.

The staff has argued that violations of the rule will be more difficult to detect as a result of the exemption. The principal approach to policing compliance with the rule will apparently be subpoenas of credit agreements to assure that the required notice is included.[3] But policing compliance with the rule with the exemption could be just as easily achieved by demanding the credit agreements (to be sure that they contained either the required notice or the absence

[1] Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses, 16 CFR Part 433 (1977).

[2] The smaller estimates depend on the assumption that sellers have been depleting their inventories of old forms during the pendency of our deliberations. Moreover, today's action of the Commission to extend the temporary exemption will reduce these costs even further. These costs, like all other costs, must be passed through to consumers, no matter what the state of competition in the regulated industry. (Economic theory tells us that there would be a proportionately greater passing through of these costs the more competitive the industry.)

of waiver language) and by further demanding a list of those that had been assigned. The absence of the notice on the assigned agreements would, of course, indicate a violation of the rule.[4] In short, I do not see how the task of policing compliance with the rule would be rendered more costly by the exemption,[5] how detection would be made more difficult, or how sellers or assignees would perceive a more valuable temptation to violate the rule.

Neither do I believe that the exemption would increase the likelihood that consumers' claims and defenses would be cut off by the exemption. Sellers who are not deterred by the prospects of heavy civil penalties but who wish to cut off consumers' claims might just as well do so by ignoring the rule altogether.

The staff is concerned, however, about the situation where the seller (in excess of the exemption and thus in violation of the rule) assigns an open-end or 30-day account that is not on its face a negotiable instrument and that does not contain a waiver of defenses. Under the Uniform Commercial Code the consumer's claims and defenses against the seller could be asserted against the assignee.[6] But under some recently enacted state consumer protection statutes the consumer's rights are less clear. My research has disclosed eleven such statutes that could be interpreted to abrogate consumer rights. Of these, eight seem to be triggered by the presence of a waiver clause of the kind that the exemption would absolutely forbid.[7] Behind each of these statutes there seems to have been a clear attempt to expand consumer rights in the face of a purported waiver, not to restrict them in the absence of one. In three other states, the statutory language is more susceptible of a perverse interpretation that would limit, rather than expand the consumer rights granted by ordinary commercial law.[8] No court to my knowledge, or, apparently to the staff's, has ever interpreted any of these statutes to the feared effect. Should a court ever do so, I do not see why we could not cancel the exemption or limit its geographic application for that reason.

The staff also argues that open-end consumer obligations might be transferred to a bankruptcy trustee without the notice (again, in violation of the rule). The trustee, it is thought, might retransfer, without adding the notice, to a third party. If these obligations did not bear a waiver of the kind that the exemption would forbid, I do not clearly see how consumer claims and defenses could be cut off. Nor do I see any reason why a bankrupt, bankruptcy judge or trustee[9] would fail to respect the legal obligation to include the notice at the time of assignment.

Each variety of potential consumer injury hypothesized by the staff requires conduct in excess of the exemption and in violation of the rule. Undoubtedly, rule violations will occur in spite of the prospect of civil penalties and some[10] consumers will suffer injury. But I fail to see how the proposed exemption will enlarge this class of violators or aggravate that injury. The prospects of detection are the same and the potential for incremental profit is remote.

Indeed, the information at hand indicates that the chances for consumer injury by cutting off consumer claims and defenses in the case of open-end or 30-day accounts is especially remote. These arrangements typically signal a continuing relationship between consumer and seller grounded in part on the seller's hope that the consumer will be a repeat, if not a regular, customer. This phenomenon is consistent with the information we have indicating that such accounts are seldom assigned (except to bill collectors against whom claims and defenses are available in any event). In contrast, the rule itself was principally directed at so-called fly-by-night sellers and sellers engaged in occasional, nonrepeat sales of big-ticket items. In short, there is no reason to suspect that the proposed exemption would aggravate such compliance problems as may otherwise arise.

Finally, we are urged to reject the exemption because the required notice may contribute to consumer education. The short answer to this question is that the rule is drafted in legal jargon[11] to serve a legal, not an educational, purpose.[12] For example, the rule does not advise consumers of their substantive rights, but only that they are preserved in an assignment, whatever they are. Moreover, if no assignment occurs, no educational purpose can possibly be served, and only confusion—as opposed to education—can result.

For these reasons, I believe that the Commission's action in failing to grant a conditional exemption for open-end credit will oblige consumers to pay more for credit with no added protection. I would grant an exemption conditioned along the lines suggested in the first part of my statement.

SEPARATE STATEMENT OF THE COMMISSION

The Commission in denying the petition issued the following statement:

The Commission has carefully reviewed the petitioners' request for a permanent exemption from the requirements of the Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses (16 CFR Part 433) and has determined to deny it.

When promulgated the Rule was designed to ensure that consumers purchasing on credit would not, as a result of negotiation or assignment of their credit instruments, be deprived as to third party holders of those instruments of defenses which the consumers would have been able to assert against the original sellers. In fashioning the Rule the Commission determined that its requirements should apply to "consumer credit contracts" (as defined in the Rule), a category somewhat broader than negotiable instruments or contracts containing waiver of defenses clauses. One concern of the Commission in taking this approach was that certain State laws

[4] It is possible that some portion of law violators will compound their misconduct by failing to produce any noncomplying documents.

[5] Once again, and presumably to the same extent, a violator could compound his misconduct by falsifying his return. See previous footnote.

[6] Although efficiency of enforcement is an important consideration, we ought to strive to confine violations of our law to those situations in which consumers may be injured. Failing to grant the exemption when the vast bulk of open-end obligations are not assigned could divert resources to policing "technical" violations that have little possibility of ripening into actual consumer injury. We might in this way actually reduce, not increase, our enforcement efficiency.

[7] U.C.C. § 9-318(1) (1972 version). Claims and defenses arising from the contract are good against the assignee whether they accrue before or after assignment. U.C.C. § 9-318(1)(a) (1972 version). Consumers' claims not arising from the contract (such as a personal injury claim against the seller) are good against the assignee if they accrue before assignment. U.C.C. § 9-318(1)(b) (1972 version). In addition, it is extremely likely that an assignee of any debt instrument not bearing the required notice would be held to have taken the instrument with actual knowledge (implied by law) that the obligation is conditional on the seller's preference.

[8] In some of these eight states there is also an issue whether the relevant statutes apply at all to open-end. 2 Consumer Credit Guide (CCH) (Del.) ¶6012, 6042; 3 Consumer Credit Guide (Kans.) ¶5154; 3 Consumer Credit Guide (CCH) (Ohio) ¶6016; Id. (Pa.) ¶¶6225, 6275; Id. (S.C.) ¶5104; Id. (Tex.) ¶6023; Id. (W. Va.) ¶5032; Id. (Wisc.) ¶5107. Of these the Kansas statute is most troublesome.

[9] 1 Consumer Credit Guide (CCH) (Ariz.) ¶6152. Even here, however, most consumers will find a strong counter-argument in Id., ¶6151. See also 3 Consumer Credit Guide (CCH) (N.C.) ¶6325; 3 Consumer Credit Guide (CCH) (S.D.) ¶6185A.

[10] It is at least doubtful that those concerned with administering the bankrupt's estate would violate our rule and subject themselves to personal liability for civil penalties, all for the benefit of creditors. To be sure, the bankruptcy law may require that the consumer have a provable claim against the estate, but this would appear to be so whether the notice is included in the underlying agreement or not.

[11] In order for consumers to be injured (with or without the exemption) the following events must conjoin: (1) The consumer must have a valid claim against the seller. (2) The consumer must not be in a position to assert this claim against the seller prior to assignment. (3) There must be an assignment. (4) The seller and the assignee must both refuse to adjust the claim. (5) The buyer must be willing to litigate the claim (as such or as a defense). (6) There must be a violation of the rule. (7) Ordinary operation of law, in face of the violation, must cut off the claim on assignment.

Open-end is distinguishable from other forms of credit covered by the rule because of the greater infrequency of events (3) and (7), to say nothing of (1).

[12] The required notice has already achieved the dubious distinction of appearing in the Gobbledygook column of the Washington Star. Washington Star, July 1, 1976.

[13] Moreover, consumers would not have access to the notice when it is included in a master two-party credit card agreement, as would be permitted.

might operate to limit or curtail defenses of consumers against assignees of "consumer credit contracts" even though such contracts might not be negotiable in form nor contain a waiver of defenses clause.

In seeking an exemption for open-end credit contracts, petitioners have not denied the possibility that in some states assignment of these contracts may result in that very loss of claims and defenses which the Rule is intended to prevent. While there is some dispute over the extent to which this may occur—and a precise evaluation is clearly not possible because of uncertainty over the interpretation of various state laws which, notwithstanding benign purposes may be construed to pernicious effect—it is conceded by both petitioners and Commissioner Collier in his dissent that consumers will be deprived of their claims. We believe that if the problem were indeed trivial or purely speculative that fact would and should have been documented in the petitions of those intimately involved in the extension of credit whose burden it is to justify the requested exemption.

In lieu of hard data, the petitions merely suggest that there is a better way than the Rule to prevent the possibility of loss of defenses as a result of assignment. Petitioners contend that rather than requiring inclusion of the Rule's prescribed notice in all open-end contracts it should only be required in such contracts at the time those contracts are assigned.[13]

The Commission determined when it promulgated the Trade Regulation Rule that the best way to prevent loss of consumer claims and defenses against third parties was to require the notice in all "consumer credit contracts." The instant petitions do not demonstrate that this original determination was incorrect. Our principal concern with the exemption proposed by petitioners is that it places the burden of compliance upon retailers at a time when they may be least likely to shoulder it or be detected if they do not. A requirement that the notice be placed in all consumer credit contracts is unambiguous, easily adhered to, and readily monitored. Compliance is likely to be widespread. Compliance with a requirement that the notice be incorporated into the contract only at the time of assignment is much more problematic. It is not apparent to us that a contract may be unilaterally modified by the creditor, and the process of contract modification upon assignment might, therefore, necessitate preassignment contact with the debtor. Diminishing the likelihood that this will occur is the fact that assignments often take place when the assignor is least concerned with the technical requirements of the law or least fearful of the scrutiny of the law enforcer, i.e., when its financial fortunes are in decline or when it faces bankruptcy.

A creditor required in the normal course of business to place the notice in all contracts will do so as a matter of routine procedure and face ready detection if it fails. A creditor making an occasional assignment, or making numerous assignments in the face of financial trauma or bankruptcy may not be aware of the requirement of a rule by which it has never before been affected, and if aware may be less apprehensive of detection. Indeed, its violations will be more difficult to detect. In light of these considerations and on the basis of the petitions before us, we find no reason to alter the Commission's earlier conclusion that requiring inclusion of the notice in all consumer credit contracts is more likely than alternative approaches to minimize the harm which the Rule is designed to prevent.

At the same time, the Commission recognizes that the issue is a difficult one and that some misunderstanding as to the scope of the Rule's provisions may have occurred. As a result, the Commission has made every effort to minimize or eliminate the costs attendant upon compliance with the Rule. In April 1977 the Commission granted a limited exemption for pre-existing open-end credit contracts and open-end contracts signed prior to August 1, 1977. Subsequently the Commission granted an additional extension of 45 days in order to minimize or eliminate the costs of compliance and has now authorized an additional 45 day period during which petitioners may bring themselves into compliance.[14]

Under these circumstances, the Commission believes, and has been given no reason to doubt, that the costs of adding the required notice to future form contracts will be insignificant, and do not justify dilution of the protections thereby afforded. Accordingly, the Commission has declined to grant the requested permanent exemption for two-party open-end credit contracts.

[FR Doc.77-27075 Filed 9-15-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5863, 34-13938, 35-20166, AS-226]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Marketable Securities and Other Security Investments

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has adopted amendments to its rules regarding disclosures by commercial and industrial companies of investments in marketable securities and other security investments. Current economic conditions and events have indicated a need for more detailed information on material concentrations of investments in the securities. The requirements of the amended rules will result in improved disclosures of these concentrations of investments by commercial and industrial companies.

DATE: Effective for financial statements for fiscal years ending after December 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Love, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-1773).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Commission originally issued a proposal in Securities Act Release No. 5668 (34-11986, IC-9116) [41 FR 4833] on January 7, 1976, to require disclosure in a footnote to the financial statements of information regarding concentrations of investments in marketable securities and other investment securities. Basically, the proposal would have required footnote disclosure by all registrants of the investments in such securities of any issues for which the aggregate book value exceeded five percent of stockholders' equity. This proposal was issued at the time Accounting Series Release No. 188 [41 FR 4817] was issued which mandated certain special disclosures for registrants' holdings of New York City securities because of the unusual risks and uncertainties pertaining to them, and, as stated in that release, the proposal was part of a longer term and more generalized effort to deal with the fact that, because other issuers of securities may suffer financial difficulties severely affecting a registrant's holdings of such securities, material concentration of holdings of any security may warrant disclosure.

After consideration of the comments on the proposal, the Commission issued a revised proposal in Securities Act Release No. 5825 (34-13500, 35-20016) [42 FR 23853] on May 2, 1977. In the revised proposal major changes were made (1) to change the criterion for the required footnote disclosures to a basis of the investments in the securities of any issuer for which the aggregate market value exceeds one percent of total assets, and (2) to limit the applicability of the requirements to commercial and industrial companies which prepare financial statements in accordance with Article 5 of Regulation S-X [17 CFR Part 210].

Other technical revisions were made in the proposal, including amendments of the instructions to the schedule prescribed under Rule 12-02 [§ 210.12-02] of Regulation S-X, "Marketable securi-

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[13] The Rule would still apply under petitioners' proposal to such open-end contracts as might be negotiable in form or contain a waiver of defenses clause.

[14] While Commissioner Dole concurs in the portion of the Commission's decision denying the permanent exemption, she continues to believe that the costs of immediate compliance have not been shown to outweigh the value of the protection to consumers that will be lost due to the extensions granted by the Commission.

ties—other security investments," to provide for segregation of the securities required to be listed by issuers in the schedule on the same basis as specified in the proposed footnote disclosure requirement. It was noted in the release that the information called for by the proposed footnote disclosure requirement might duplicate to some extent the disclosures required to be provided in the schedule under Rule 12-02. Comments were solicited regarding how to reduce or eliminate such duplication.

COMMENT ON THE SECOND PROPOSAL

Comments on the proposal in Release No. 33-5825 have been carefully considered. Most commentators generally supported the concept embodied in the proposal of disclosure of concentrations of investments in the securities of particular issuers with the objective of providing better information for evaluating the risks of investments as between issuers. However, almost all stated that the criterion for disclosure of the concentrations, specified in the proposal as one percent of total assets, was too low and would result in disclosure in the notes to financial statements of considerable detailed information which is immaterial. It was suggested that, as a minimum, the basis for disclosure should be increased to two percent of total assets to conform to the criterion for grouping of securities by issuers presently specified in Rule 12-02, and in any event, footnote disclosures should not be required for investments in securities of the U.S. Government and its agencies because of their nearly risk-free nature.

It was also suggested that, if a requirement for footnote disclosure of material concentrations of investments is adopted by the Commission, the Rule 12-02 schedule requirement should be eliminated, inasmuch as the information included in the Rule 12-02 schedule on material investments and material concentrations would also be provided in the footnote, and therefore the disclosures in the Rule 12-02 schedule regarding such material investments and concentration would be duplicative and unnecessary.

Other commentators suggested that the proposed requirement for footnote disclosure of the concentrations of investments be withdrawn and instead the requirements for the schedule under Rule 12-02 be revised to insure that all disclosures called for in the proposed new rule will be included in the schedule. They reasoned that many of the securities and the concentrations thereof itemized in the schedule would involve no unusual risks or uncertainties, particularly securities of the U.S. Government and its agencies, and other requirements exist for specific discussions or disclosures in the financial statements regarding unusual risks or uncertainties relating to any material concentrations of investments in securities and accordingly a requirement for footnote disclosure of all such material concentrations is unnecessary.

ADOPTION OF AMENDMENTS

After consideration of the comments, the Commission has determined to withdraw the proposal contained in Release No. 33-5825 and instead amend Rule 12-02 and Rule 5-04 (17 CFR 210.5-04), which specifies when the schedule prescribed by Rule 12-02 shall be filed for disclosures of securities included under caption 2, Marketable securities, and caption 12, Other security investments, of a balance sheet, to require detailed disclosures in the Rule 12-02 schedule regarding each issue of securities of any issuer where the greater of the aggregate cost or market value of the securities of the issuer constitutes two percent or more of total assets, and to permit summarized disclosures of the other security holdings of the registrant in the marketable securities and other security investments accounts, the amounts of which, for any issuer, do not exceed two percent of total assets. The detailed disclosures required include a description of each security issue, the cost, the market value, and the amounts at which carried in the balance sheet.

The Commission is persuaded by the comments that inclusion in one schedule of these data regarding all of the securities held under these two accounts by a registrant will facilitate a better analysis of the securities holdings, particularly in the comparison of risk factors as between securities. Furthermore, generally accepted accounting principles presently require write-downs or accrual of provisions for losses on securities, as well as disclosure regarding other unquantified loss contingencies in the financial statements, and the Commission would require discussion, in "Management's Discussion and Analysis of Summary of the Earnings" included in reports filed with the Commission, of any unusual risks and uncertainties relating to any material investments or concentration of investments, as discussed and illustrated in Accounting Series Release No. 166 (40 FR 2678). Therefore, requirements beyond those specified above and in the revised Rule 12-02 schedule regarding material concentrations of investments are not considered necessary for commercial and industrial companies subject to Article 5 of Regulation S-X.

Other technical revisions are effected in Rule 5-02 (§ 210.5-02), captions 2 and 12; Rule 5-04 (§ 210.5-02), Schedule I; and the captions and instructions of Rule 12-02 (§ 210.12-02) to clarify the basis for valuation of securities including recognition of requirements under generally accepted accounting principles for determination of the carrying amounts of marketable equity securities on a portfolio basis; and, with regard to caption 2 of Rule 5-02, to clarify the exclusion of securities from the caption.

COMMISSION ACTION: The Commission hereby amends Part 210 of 17 CFR Chapter II, by revisions of (1) captions 2 and 12 of § 210.5-02, (2) Schedule I of § 210.5-04, and (3) the captions and instructions of § 210.12-02 to read as given below.

§ 210.5-02 Balance sheets.

* * * * *

2. *Marketable securities.* Include only securities having a ready market and which represent the investment of cash available for current operations; securities which are intended to be used for nonworking capital purposes shall be excluded. Securities of affiliates and of other persons the investments in which are accounted for by the equity method shall not be included here. State, parenthetically, or otherwise, the basis of determining the aggregate amounts shown in the balance sheet for the portfolio of equity securities and for all other securities, and for each category state the alternative of the aggregate cost or the aggregate market value at the balance sheet date. When the original cost of securities purchased on a yield basis has been properly adjusted to reflect amortization of premium or accumulation of discount since acquisition, the basis of determining their amount may be described "at cost."

* * * * *

12. *Other security investments.* State, parenthetically or otherwise, the basis of determining the aggregate amounts shown in the balance sheet for the portfolio of equity securities and for all other securities, and for each category state the alternate of the aggregate cost or the aggregate market value at the balance sheet date.

* * * * *

§ 210.5-04 What schedules are to be filed.

* * * * *

Schedule I—Marketable securities—other security investments. The schedule prescribed by § 210.12-02 shall be filed—

(1) In support of caption 2 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 10 percent or more of total assets.

(2) In support of caption 12 of a balance sheet, if the greater of the aggregate cost or the aggregate market value of other security investments as of the balance sheet date constitutes 10 percent or more of total assets.

(3) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market of other security investments plus the greater of the aggregate cost or the aggregate market value of marketable securities as of the balance sheet date constitutes 15 percent or more of total assets.

(4) In support of captions 2 and 12 of a balance sheet, if the greater of the aggregate cost or aggregate market value of the securities as of the balance sheet date of any issuer reported under either caption 2 or caption 12 constitutes two percent or more of total assets.

* * * * *

§ 210.12-02 Marketable securities—other security investments.

Column A	Column B	Column C	Column D	Column E [1]
Name of issuer [2] and title of each issue.[3]	Number of shares or units—principal amount of bonds and notes.	Cost of each issue.....	Market value [4] of each issue at balance sheet date.	Amount at which each portfolio of equity security issues and each other security issue carried in the balance sheet.

[1] Column E shall to totaled to correspond to the respective balance sheet captions.
[2] For the purpose of this schedule, each of the following groups of entities shall be considered as one issuer: (a) The United States Government and its agencies; (b) any State of the United States and its agencies; (c) a political subdivision of a state of the United States and its agencies; (d) a foreign government and its agencies and political subdivisions; and (e) a corporation and its majority owned subsidiaries. If a security listed herein is guaranteed by or considered a moral obligation of another issuer named herein, provide, in a note keyed to each issuer, a brief description of the terms of such guarantee or obligation.
[3] (a) Each issue shall be stated separately, except that reasonable groupings, without enumeration, may be made of securities of any issuer for which the greater of the aggregate cost or aggregate market value is less than 2 pct. of total assets. (b) In the case of bank holding companies group separately (1) securities of banks and (2) other securities, and in column C show totals for each group.
[4] Market value shall be based on market quotations at the balance sheet date or, if such quotations are not available, on determinations of fair value made in good faith by the board of directors.

These amendments shall be effective for financial statements for fiscal years ending after December 24, 1977. The amendments are adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, and 77s) of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78l, 78m, 78o(d) and 78w) of the Securities Exchange Act of 1934; and Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, and 79t) of the Public Utility Holding Company Act of 1935. Pursuant to Section 23(a)(2) of the Exchange Act, the Commission has considered the effect that the proposed amendments would have on competition and is not aware, at this time, of any burden that such amendments would impose on competition not necessary or appropriate in furtherance of the purposes of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1977.

[FR Doc.77-26984 Filed 9-15-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77C-0207]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Guanine; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 23, 1977, of a regulation concerning the use of guanine in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed, August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37536) added §§ 73.1329 and 73.2329 to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of guanine in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)), by deleting guanine (pearl essence) from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (Sec. 706(b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 22, 1977. Accordingly, the amendments promulgated thereby became effective on August 23, 1977.

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26627 Filed 9-15-77;8:45 am]

[Docket No. 77C-0210]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Zinc Oxide; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 23, 1977, of a regulation concerning the use of zinc oxide in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed, August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37537) added §§ 73.1991 and 73.2991 to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of zinc oxide in externally applied drugs and in cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1(g) (21 CFR 81.1(g)) by deleting zinc oxide from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 22, 1977. Accordingly, the amendments promulgated thereby became effective on August 23, 1977.

Dated: September 7, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-26628 Filed 9-15-77;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 76N-0153]

PART 701—COSMETIC LABELING

Ingredient Designation of Cosmetics Sold by Direct Mail

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document provides for off-package declaration of ingredients for cosmetics distributed to consumers by direct mail and prescribes the requirements for this alternative method of labeling. Petitioners had requested this labeling method.

EFFECTIVE DATE: October 17, 1977, except as to any provision that may be stayed by the filing of proper objections.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington D.C. 20204 (202-245-1530).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 21, 1976

(41 FR 24899), the Commissioner of Food and Drugs issued a proposal to provide for off-package declaration of ingredients in the case of cosmetics distributed to consumers by direct mail. Petitioners requested this method of labeling as an alternative to the declaration of ingredients on a package label, as required in the cosmetic ingredient labeling regulations (21 CFR 701.3 (a) and (b)). Petitioners requested that distributors selling cosmetics by direct mail be permitted to list the ingredients of these cosmetics either in a descriptive catalog from which the consumer selects or orders products by mail, or, where cosmetics are mailed on consignment, in accompanying literature.

Five comments were received in response to the proposal. Four comments endorsed the proposal; namely, two explicitly and two by implication in that they proposed further amendments or other regulatory action. One comment expressed neither endorsement nor opposition. Summaries of the comments and the Commissioner's conclusions follow:

1. One comment endorsing the proposal to add a new paragraph (r) to § 701.3 expressed disappointment about the Commissioner's denial of a request for listing of ingredients in alphabetical order or listing of only "known allergens" as an alternative to the currently prescribed listing of ingredients in descending order of predominance. A second comment, which expressed preference for alphabetical ingredient listing, neither endorsed nor opposed the proposal.

The Commissioner advises that the issue of alphabetical listing of ingredients or declaration of only "known allergens" was fully discussed in the preambles to regulation published in the FEDERAL REGISTER of May 30, 1975 (40 FR 23458) and the proposal published in the FEDERAL REGISTER of June 21, 1976 (41 FR 24899). No data or other information were submitted during the comment period after the May 30, 1975, regulation, or at any time thereafter, in support of these alternate methods of declaration of ingredients. Accordingly, no rule making proceeding was initiated to change the existing requirement for listing ingredients in descending order of predominance.

2. One comment asked that cosmetics sold by direct mail and accompanied by labeling bearing ingredient declarations specifically relating to the cosmetics mailed should not be required to state that a copy of the ingredient declarations will be mailed to any person requesting it, as ordered in proposed § 701.3(r)(2)(ii). The comment argued that a copy of the brochure describing the cosmetics and listing the ingredients would likely be included in a cosmetic shipment, and the required mailing of additional brochures is burdensome, costly, and unjustified. The comment also said that this provision is more stringent than the requirement of § 701.3(k)(5), concerning certain cosmetics with off-package ingredient labeling that are sold at retail. Section 701.3(k)(5), it was noted, merely requires that the distributor "supply sufficient declarations of ingredients so that a purchaser may obtain a copy of the declaration with each purchase."

The Commissioner is not persuaded that the requirements of proposed § 701.3(r)(2)(ii), i.e., the statement on the mail order package and the mailing of an ingredient declaration to any person requesting it, are unjustified and exceed a similar requirement for cosmetics with off-package labeling that are sold at retail. There is always the chance that some cosmetic assortments may on occasion not contain the brochure with the ingredient information. The recipients of such mailings must be assured that ingredient declarations are available from the distributor on request. In addition, consumers who have lost or inadvertently discarded their brochures must be able to obtain new ingredient lists from the distributor when needed, and the ingredient information must also be available to other consumers sharing in the use of a cosmetic assortment.

The Commissioner points out that proposed § 701.3(r) only provides for an alternate method of ingredient labeling. Cosmetics distributed by direct mail may also bear the ingredient information on the package label, should this method be more convenient and economical. Furthermore, the distributor is not required to mail a costly brochure to a person requesting ingredient information. Ingredient declarations may be provided on leaflets or other plain labeling.

As regards § 701.3(k)(5), the comment disregarded the additional provision of § 701.3(k)(6), which requires that the firm whose name appears on the label of a "shaded" product, as defined in § 701.3(l)(2), that does not bear an ingredient declaration shall promptly mail a copy of the ingredient information to any person requesting it. Accordingly, the requirements of § 701.3(r) are not discriminatory or more stringent than those applicable to "shaded" cosmetics.

3. Two comments contended that off-package ingredient labeling as proposed for cosmetics sold by direct mail should also be permitted in the case of cosmetics distributed to consumers by means of "direct selling" or "door-to-door selling." This method of selling involves solicitation of sale of a cosmetic by an independent sales agent at the consumer's home and delivery of the purchased product by the salesperson to the consumer. Both comments held that the methods of distribution of cosmetics by direct selling and direct mail have much in common, with the pertinent difference between the two methods of selling being the manner of product delivery, i.e., delivery of a product to a consumer by a sales agent as opposed to delivery by postal service.

The Commissioner advises that proposed § 701.3(r) was published in response to a petition concerning only cosmetics sold by direct mail. The request did not refer to cosmetics distributed by means of direct selling. Moreover, the Commissioner disagrees with the contention that the two methods of distribution of cosmetics are sufficiently analogous also to permit off-package ingredient labeling for cosmetics distributed by means of direct selling. In fact, the Commissioner concludes that the two methods of distribution differ profoundly. In the case of distribution by direct mail, a cosmetic is shipped directly to the consumer and the distributor fully controls delivery to the consumer of the required ingredient information. Where a cosmetic is shipped to a sales agent for delivery or sale to a consumer, the delivery of ingredient information to the consumer cannot be controlled by a distributor in the case of off-package labeling. Direct selling, therefore, has in this regard much more in common with selling through retail outlets than selling by direct mail, and, with the exception of shaded cosmetics held for sale in tightly compartmented trays or racks, cosmetics sold through retail outlets are not permitted to declare ingredients by means of off-package labeling.

4. One comment requested clarification regarding the definition of the term "package" and placement on the package of the notice informing the consumer about the location of the declaration of ingredients and, specifically, whether the notice may be located on the face of the package platform surrounding and holding the assorted products.

The Commissioner advises that the term "package" as it applies to this regulation is defined in section 10(b) of the Fair Packaging and Labeling Act (15 U.S.C. 1459(b)) and in 21 CFR 1.20. Since a shipping container is not included in the definition of the term "package," the respective notice may not be placed on an "outer mailing container."

Placement of the notice on the face of the package platform surrounding and holding the assorted products is not considered contrary to the intent of § 701.3(r)(2). To clarify the meaning of this requirement, the Commissioner is amending its wording accordingly. Section 701.3(r)(2) now includes in the description of the location of the respective notice the additional phrase, "* * * on the face of the package platform surrounding and holding the product(s) * * *."

5. On April 27, 1976, the Commissioner received a request for extension of the effective dates of cosmetic ingredient labeling—May 31, 1976 for ordering labels with ingredient declarations and November 30, 1976, for labeling of cosmetics with ingredient declarations (Ref. 1). The petitioner sought the extension because no action had been taken to that date by FDA on the requested permission for off-package labeling of cosmetics sold by direct mail, and the requirement for ingredient labeling was about to become effective. In the FEDERAL REGISTER of June 21, 1976 (41 FR 24899), the Commissioner issued the proposal regarding off-package ingredient labeling of cosmetics sold by direct

mail. On August 2, 1976, the petitioner was notified that the request for extension of the effective dates was denied, but because of the existing uncertainties and the petitioner's concern about full compliance with regulatory requirements, the agency notified the petitioner that it would not take regulatory action against cosmetics labeled in accordance with proposed § 701.3(r). The Commissioner advises that he will continue to abide by this commitment until the final rule becomes effective.

REFERENCES

1. Letter of April 27, 1976, by William F. Weigel, Counsel for Cosmetique Beauty Club, Inc., to the Hearing Clerk, Food and Drug Administration.

2. Letter of August 2, 1976, by the Associate Commissioner for Compliance, to William F. Weigel, Esq., Rogers, Hoge & Hills, New York, N.Y. 10016.

Therefore under the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 70 Stat. 919 as amended (21 U.S.C. 371(e)), the Fair Packaging and Labeling Act (secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 701 is amended in § 701.3 by adding new paragraph (r), to read as follows:

§ 701.3 Designation of ingredients.

* * * * *

(r) In the case of cosmetics distributed to the consumers by direct mail, as an alternative to the declaration of ingredients on an information panel, the declaration of ingredients may appear in letters not less than 1/16 of an inch in height in labeling that accompanies and specifically relates to the cosmetic(s) mailed, or in labeling furnished to each consumer for his personal use and from which he orders cosmetics through the mail, e.g., a direct mail sales catalog or brochure, provided all of the following additional requirements met:

(1) The declarations of ingredients are conspicuous and presented in a way that permits the consumer to identify the declaration of ingredients applicable to each cosmetic.

(2) The package mailed to the consumer is accompanied by a notice located on, or affixed to, the top of the package or on top of the contents inside the package, or on the face of the package platform surrounding and holding the product(s), readily visible to the consumer on opening of the package, and provides the following information in letters not less than 5/16 of an inch in height:

(i) The location of the declarations of ingredients, e.g., in an accompanying brochure, or in a sales catalog used for ordering;

(ii) A statement that a copy of the declaration of ingredients will be mailed promptly to any person requesting it; and

(iii) The name and place of business of the mail order distributor,

(3) The mail order distributor promptly mails a copy of the declaration of ingredients to any person requesting it.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 17, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a heading is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a heraing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m. Monday through Friday.

Effective date. This regulation shall become effective October 17, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 701(e), 70 Stat. 919, as amended (21 U.S.C. 371(e)); secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455).)

Dated: September 9, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-26755 Filed 9-15-77;8:45 am]

SUBCHAPTER H—MEDICAL DEVICES

[Docket No. 76N-0355]

ESTABLISHMENT REGISTRATION AND PREMARKET NOTIFICATION PROCEDURES

Corrections

In FR Doc. 77-24147 appearing as Part III at page 42519 in the issue for Tuesday, August 23, 1977, the following corrections should be made.

1. On Page 42521, second column, line 19, the word, "modification", should read, "notification".

2. On page 42525, third column, 4th line from the bottom, the date, "October 25, 1977", should be changed to, "October 24, 1977".

3. On page 42526, first column, the dates on lines 7 and 12 of paragraph d., now reading, "October 21, 1977", should read, "October 24, 1977".

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.745]

PART 9A—CLASSIFICATION OF CERTAIN INFORMATION AND MATERIAL OBTAINED FROM ADVISORY BODIES CREATED TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Security Information Regulations Applicable to Certain International Energy Program, Related Material

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule establishes regulations for the classification and safeguarding of certain information and material obtained from advisory bodies created to implement the International Energy Program (TIAS 8278). EO 11932 directs the Department of State to promulgate such regulations which will provide for the protection of classified information taking into account the special circumstances under which such information is generated and utilized and will reflect the character of certain records which may be in the possession of the United States Government.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald A. Rosen, Director, Office of Fuels and Energy, Bureau of Economic and Business Affairs, Department of State, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 17142, March 31, 1977) inviting interested persons to submit comments regarding the proposed regulation. Relevant comments have been considered and in order to clarify the regulations, a new § 9a.1 is added and the remaining section headings are renumbered.

Accordingly, Part 9a is adopted as set forth below.

Dated: September 6, 1977.

BEN H. READ,
Deputy Under Secretary for Management.

Sec.
9a.1 Security of certain information and material related to the International Energy Agency.
9a.2 General policy.
9a.3 Scope.
9a.4 Classification
9a.5 Declassification and downgrading.
9a.6 Marking.
9a.7 Access.
9a.8 Physical protection.

AUTHORITY: E. O. 11932 (41 FR 32691), E. O. 11652 (37 FR 5209), National Security Council Directive of May 17, 1972 (37 FR 10053).

§ 9a.1 Security of certain information and material related to the International Energy Program.

These regulations implement Executive Order 11932 dated August 4, 1976 (41 FR 32691, August 5, 1976) entitled "Classification of Certain Information and Material Obtained from Advisory Bodies Created to Implement the International Energy Program."

§ 9a.2 General policy.

(a) The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency (IEA). This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the IEA. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies.

(b) These regulations establish procedures for the classification, declassification, storage, access, and dissemination of certain information related to the International Energy Program.

§ 9a.3 Scope.

These regulations apply to all information and material classified by the United States under the provisions of E. O. 11932, dated August 4, 1976 entitled "Classification of Certain Information and Material Obtained From Advisory Bodies Created To Implement The International Energy Program."

§9a.4 Classification.

(a) Section 1 of E.O. 11932, August 4, 1976 directs that information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order 11652.

(b) Information and material, including transcripts, records, and communications, in the possession of the United States Government which has been obtained pursuant to (1) Section 252(c)(3), (d)(2) or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871, 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or (2) The Voluntary Agreement and Program Relating to the International Energy Program (40 FR 16041, April 8, 1975), or (3) the Voluntary Agreement and Plan of Action to Implement the International Energy Program (41 FR 13998, April 1, 1976), or (4) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act shall be reviewed by an officer of the Department of State with classifying authority for the purpose of determining whether such information or material should be classified pursuant to E.O. 11652. If the officer determines that the information or material warrants classification, he shall assign it the appropriate classification. Such information or material may be exempted from the General Declassification Schedule established by Section 5 of Executive Order No. 11652 if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be exempted under Section 5 (B) of such Order.

(c) In classifying such information or material, officers of the Department of State shall follow the standards in E.O. 11652 and the provisions of 22 CFR 9.5–9.8.

§ 9a.5 Declassification and downgrading.

The provisions of E.O. 11652, 22 CFR 9.9–9.15, and 9a.4(b) shall govern declassification and downgrading of such information or material.

§ 9a.6 Marking.

(a) The provisions of 22 CFR 9.15–9.19 shall govern the marking of information or material classified under the provisions of these regulations, except that the following stamp shall be used as appropriate:

(Top Secret, Secret or Confidential)
Classified by:----------
Under Executive Order 11932
Exempt from General Declassification Schedule of E.O. 11652 Exemption Category § 5B (2), (3), or (4); or E.O. 11932
Automatically Declassified on----------
(effective date or event if any)

Exemption category "E.O. 11932" shall be used for information and material obtained by the United States on the understanding that it be kept in confidence and classified under E.O. 11932.

(b) If the information or material does not qualify for exemption from the General Declassification Schedule, ordinary stamps and marking may be used.

§ 9a.7 Access.

(a) Except as set forth in this section, access to information or material classified under the provisions of these regulations shall be governed by the provisions of 22 CFR 9.20–9.25.

(b) Classified information and material which was created by or in connection with an advisory body to the IEA may be made available to participants in such advisory body and their colleagues in accordance with the following subsections.

(c) Such information and material classified "Confidential" may be made available for review to participants in the meeting of the advisory body in which it was developed or discussed. Where participants are acting as representatives of companies or of the IEA Secretariat, such information and material may be made available for review to employees or other representatives of, or counsel for, such companies or Secretariat: *Provided*, That such person is determined by an appropriate officer of the Department to be trustworthy and to have a need for access to the particular classified information sought in connection with the performance of duties in furtherance of the purposes of the IEA, including the furnishing of legal advice to such participants.

(d) Such information and material classified "Confidential" may be left in the custody of such participants or other persons who may review it for reasonable periods of time: *Provided*, That an appropriate officer of the Department determines that it will be protected from unauthorized disclosure by adequate security safeguards. Such information or material may not be reproduced by those permitted to review it pursuant to this section without the written consent of an officer of the Department with classifying authority.

(e) Such information and material classified other than "Confidential" under E.O. 11652 may be made available for review only to participants in the meeting in which it was developed or discussed; it must be reviewed in the presence of an official of the United States Government with an appropriate security clearance granted by the Department, and may not be left in the custody of such participants.

§ 9a.8 Physical protection.

Except as provided in § 9a.7, the physical protection of information or material classified under this regulation shall be governed by the appropriate provisions of 22 CFR 9.45–9.49.

[FR Doc.77-27057 Filed 9-15-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Training Requirements

SEPTEMBER 7, 1977.

AGENCY: Bureau of Indian Affairs, Interior Department.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending the regulations relating to training for Indian police and jailers. The amendments authorize certain non-BIA training and is designed to give trainees a greater choice of training programs and to permit the BIA to determine which training programs meet BIA requirements. The changes in the requirements for jailer training are necessary because only limited training for jailers is available at the Indian Police Academy. The changes in the action required to be taken when an officer fails to pass a required course are designed to minimize the adverse consequences to the maximum extent possible without undermining the training requirement.

EFFECTIVE DATE: This revision is effective October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Eugene F. Suarez, Sr., Division of Law Enforcement Services, Bureau of Indian Affairs, Washington, D.C. 20245, telephone: 202-343-5786.

SUPPLEMENTARY INFORMATION: These amendments make several minor changes in the rules governing training for Indian police and jailers. Subparagraph (1) of § 11.304(g) is revised to authorize training in any program approved by the Commissioner of Indian Affairs. The old rule authorized only training given by the Indian Police Academy or the state where the officer is employed. Subparagraphs (2), (3), and (4) of § 11.304(g) are revised to authorize training prior to entry on new duties. The old rule limited the availability of training to those already performing those duties. Paragraph (n) of § 11.305 is revised to permit jailers to serve up to six months before completing training. The old rule required the jailer to be trained before entry on duty. This paragraph is also revised to include any training approved by the Commissioner. The old rule permitted training only by the Indian Police Academy or by the state where the jailer is employed. The rules have also been modified to include as one possible consequence of failure to pass a training program a lateral transfer. The old rule mandated dismissal or demotion.

This revision was published as a proposed rule in the March 22, 1977, FEDERAL REGISTER (42 FR 15429). No comment from the public objecting to the proposed rule or suggesting that it be changed was received. The only change from the proposed rule provides that non-BIA training must substantially meet or exceed the level of training provided by the Indian Police Academy in order to be approved. This change has been made to provide a standard to be used by the Commissioner in exercising approval authority.

This rule is published under the authority contained in 5 U.S.C. 301, 25 U.S.C. 2, and 25 U.S.C. 450k, and delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Sections 11.304 and 11.305 of Subchapter B, Chapter I, Title 25 of the Code of Federal Regulations are amended as follows:

1. By revising § 11.304(g) to read as follows:

§ 11.304 Minimum standards for police programs.

* * * * *

(g)(1) Newly employed patrol officers shall successfully complete within their first year of service the approved Basic Police Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who fails to complete the training required by this subparagraph shall be discharged or transferred to a position not involving law enforcement duties. Transfer may result in demotion.

(2) Prior to, or within one year after, promotion or appointment to a supervisory enforcement position, an employee shall complete the approved Supervisory Enforcement Officer Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who is serving in a supervisory position and fails to complete the training required in this subparagraph shall be transferred to a nonsupervisory position. Transfer may result in demotion.

(3) Prior to, or within one year after, promotion or appointment to a criminal-investigator position, an officer shall successfully complete the Criminal-Investigator Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Commissioner of Indian Affairs. An officer who is serving in a criminal-investigator position and fails to complete the training required in this subparagraph shall be transferred to a noncriminal-investigator position. Transfer may result in demotion.

(4) Prior to, or within one year after, promotion or appointment to a supervisory criminal-investigator position, an officer shall successfully complete the Executive Management Course of Training conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy approved by the Commissioner of Indian Affairs. An Officer who is serving in a supervisory criminal-investigator position and fails to complete the training required in this subparagraph shall be transferred to a nonsupervisory criminal-investigator position. Transfer may result in demotion.

2. By revising § 11.305(n) to read as follows:

§ 11.305 Minimum standards for detention programs.

* * * * *

(n) Prior to, or within six months after, promotion or appointment to a position involving detention/jail duties, an employee shall successfully complete a Detention/Jail Operations and Management Training Course approved by the Commissioner of Indian Affairs. An employee who is serving in a position involving detention/jail duties and fails to complete the training required by this paragraph shall be transferred to a position not involving detention/jail or law enforcement duties or discharged. Transfer may result in demotion.

(Catalog of Federal Domestic Assistance Program No. 15.131, Indian Law Enforcement Services.)

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-26996 Filed 9-15-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules. The Statement of Procedural Rules sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service. These amendments are made necessary by statutory changes and miscellaneous changes of a technical nature.

DATE: The regulations are effective September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224 (Attention: CC: LR: T) (202-566-3328).

SUPPLEMENTARY INFORMATION:

BACKGROUND

A discussion of the most significant amendments follows:

Section 601.106 is amended to provide that the taxpayer or the taxpayer's representative should be advised when the Appellate Division raises a new issue, and should be offered an opportunity for discussion prior to the Service taking any formal action.

Paragraph (d)(2)(i) of section 601.106 is amended to provide that the Appellate Division may secure partial agreements when some of the issues can be resolved.

Paragraph (d)(2)(ii) of section 601.106 is amended to provide that in unagreed cases before the Appellate Division, the case and its administrative file will no longer be forwarded to the service center director or the district director for the issuance of the statutory notice of disallowance of a claim for refund or credit. This notice will be issued by the Appellate Division.

Paragraph (f)(5) of section 601.106 is amended to indicate that the jurisdiction of the Appellate Division includes cases involving termination of taxable year assessments and jeopardy assessments.

Paragraph (g)(1) of section 601.106 is amended to indicate that if the Appellate Division determines that there has been an overpayment of certain taxes in excess of $200,000, including excise taxes imposed upon private foundations or pension plans under chapter 42 or 43, the determination will be considered by the Joint Committee on Taxation.

Paragraph (a) of section 601.108 is amended to provide that no refund or credit of certain taxes in excess of $200,000 may be made until after the expiration of 30 days from the date a report is submitted to the Joint Committee on Taxation.

Paragraph (e)(19) of section 601.201 is amended to indicate that a taxpayer may protest an adverse ruling letter, or the terms and conditions contained in a ruling letter, issued under § 367 of the Code by sending or hand delivering a letter to the Service within certain time limits. Additionally, this amendment sets forth the procedure to be followed by the Assistant Commissioner (Technical) upon the timely receipt of the letter of protest.

Paragraph (c)(4) of section 601.202 is revised to provide that associate chiefs and conferee-special assistants of the appellate branch offices are no longer authorized to enter into and approve certain closing agreements.

Paragraph (c)(5) of section 601.202 is revised to provide that associate chiefs of the appellate branch offices are no longer authorized to enter into and approve certain other closing agreements. Further, this section is revised to provide that assistant regional commissioners (employee plans and exempt organizations) are authorized to enter into and approve closing agreements under their jurisdiction.

Paragraph (f)(3) of section 601.702 is amended to reflect an increase in the fees to be charged to the public for search and duplication services performed by the Internal Revenue Service.

DRAFTING INFORMATION

The principal author of these amendments to the Statement of Procedural Rules was Robert Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE STATEMENT OF PROCEDURAL RULES

Accordingly, 26 CFR Part 601 is amended as follows:

Paragraph 1. Section 601.106 is amended as follows:

1. A new sentence is added to the end of paragraph (d)(1) as set forth below.

2. Paragraph (d)(2)(i) is revised as set forth below.

3. Paragraph (d)(2)(ii) is amended by deleting the fourth sentence and inserting in lieu thereof the sentences set forth below.

4. Paragraph (f)(5) is amended by revising the first sentence as set forth below.

5. Paragraph (f)(8) is amended by striking out "Tax Court of the United States" and inserting in lieu thereof "United States Tax Court" wherever it appears.

6. Paragraph (g)(1) is revised as set forth below.

§ 601.106 Appellate functions.

* * * * *

(d) *Disposition and settlement of cases before the Appellate Division*—(1) *In general.* * * * If the Appellate Division raises a new issue, the taxpayer or the taxpayer's representative should be so advised and offered an opportunity for discussion prior to the taking of any formal action, such as the issuance of a statutory notice of deficiency.

(2) *Cases not docketed in the Tax Court.* (i) If after consideration of the case by the Appellate Division of the region a satisfactory settlement of some or all the issues is reached with the taxpayer, he will be requested to sign Form 870-AD or other appropriate agreement form waiving restrictions on the assessment and collection of any deficiency and accepting any overassessment resulting from the agreed settlement. In addition, in partially unagreed cases, a statutory notice of deficiency will be prepared and issued in accordance with subdivision (ii) of this subparagraph with respect to the unagreed issue or issues.

(ii) * * * In addition, if a claim for refund is disallowed in full or in part by the Appellate Division and the taxpayer does not sign Form 2297, the Appellate Division will prepare the statutory notice of claim disallowance and send it to the taxpayer by certified mail (or registered mail if the taxpayer is outside the United States), with a carbon copy to the taxpayer's representative by regular mail, if appropriate. In any other unagreed case, the case and its administrative file will be forwarded to the service center director or returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the preparation of a notice of adjustment, or the collection of any addition tax in excise and employment tax cases or of the 100-percent penalty. * * *

* * * * *

(f) *Conference practice requirements.* * * *

(5) *Rule V.* In order to bring an unagreed income, estate, or gift tax case in prestatutory notice status, an unagreed employment or excise tax case, an offer in compromise, a termination of taxable year assessment case, or a jeopardy assessment case before the Appellate Division, the taxpayer or taxpayer's representative should first file with the district office, service center, or Office of International Operations a written protest setting forth specifically the reasons for the refusal to accept the findings. * * *

* * * * *

(g) *Limitations on the jurisdiction and function of the Appellate Division*—(1) *Overpayment of more than $200,000.* If the Appellate Division of a region determines that there is an overpayment of income, war profits, excess profits, estate, or gift taxes, or any tax imposed with respect to private foundations or pension plans under chapter 42 or 43, including penalties and interest, in excess of $200,000, such determination will be considered by the Joint Committee on Taxation. See § 601.108.

* * * * *

Par. 2. Section 601.108 is amended by revising the title of § 601.108 and the first sentence of paragraph (a) to read as set forth below.

§ 601.108 Review of overpayments exceeding $200,000.

(a) *General.* Section 6405(a) of the Code provides that no refund or credit of income, war profits, excess profits, estate, or gift taxes, or any tax imposed with respect to private foundations or pension plans under chapter 42 or 43, including penalties and interest, in excess of $200,000 may be made until after the expiration of 30 days from the date a report is made to the Joint Committee on Taxation. * * *

* * * * *

Par. 3. Section 601.201 is amended as follows:

1. The eighth and ninth sentences of paragraph (e)(2) are deleted and the sentences set forth below are inserted in lieu thereof.

2. Paragraph (e)(19) is revised to read as set forth below.

§ 601.201 Rulings and determination letters.

* * * * *

(e) *Instructions to taxpayers.* * * *

(2) * * * If the request for an advance ruling is under section 367 of the Code, see Revenue Procedure 68-23, 1968-1 C.B. 821 as amplified by Revenue Procedure 76-20, 1976-1 C.B. 560, and Revenue Procedure 77-5, 1977-5 I.R.B. 23. (Revenue Procedure 68-23 contains guidelines for taxpayers and their representatives in connection with issuing rulings under section 367. Revenue Procedure 76-20 explains the effect of Revenue Rule 75-561, 1975-2 C.B. 129, on transactions described in section 3.03 (1)(c) of Revenue Procedure 68-23. Revenue Procedure 77-5 sets forth procedures for submitting ruling requests under section 367, and the administrative remedies available to a taxpayer within the Service after such rulings have been issued.) * * *

* * * * *

(19) A taxpayer may protest an adverse ruling letter, or the terms and conditions contained in a ruling letter, issued after January 30, 1977, under section 367(a)(1) of the Code (including a ruling with respect to an exchange described in section 367(b) which begins before January 1, 1978) or section 1042(e)(2) of the Tax Reform Act of 1976, not later than 45 days after the date of the ruling letter. (For rulings issued under these sections prior to January 31, 1977, see section 4.01 of Revenue Procedure 77-5.) The Assistant Commissioner (Technical) will establish an ad hoc advisory board to consider

each protest, whether or not a conference is requested. The taxpayer will be granted one conference upon request. Whether or not the request is made the board may request one or more conferences or written submissions. The taxpayer will be notified of the time, date, and place of the conference, and the names of the members of the board. The board will consider all materials submitted in writing by the taxpayer and oral arguments presented at the conference. Any oral agreements made at a conference by the taxpayer, which have not previously been submitted to the Service in writing, may be submitted to the Service in writing if postmarked not later than seven days after the day of the conference.

The Board will make its recommendation to the Assistant Commissioner (Technical) and the Assistant Commissioner will make the decision. The taxpayer will be informed of the decision of the Assistant Commissioner by certified or registered mail. The specific procedures to be used by a taxpayer in protesting an adverse ruling letter, or the terms and conditions contained in a ruling letter, under section 367 will be published from time to time in the Internal Revenue Bulletin (see, for example, Revenue Procedure 77-5).

* * * * *

Par. 4. Section 601.202 is amended by revising paragraphs (c)(4) and (c)(5) to read as set forth below.

§ 601.202 Closing agreements.

* * * * *

(c) *Approval.* * * *

(4) Regional commissioners, assistant regional commissioners (appellate), assistant regional commissioners (audit), district directors, the Director of International Operations, chiefs and assistant chiefs of appellate branch offices may enter into and approve closing agreements on cases under their jurisdiction (but excluding cases docketed before the U.S. Tax Court) for a taxable period or periods which end prior to the date of agreement and related specific items affecting other taxable periods.

(5) Regional commissioners, assistant regional commissioners (employee plans and exempt organizations) and (appellate), chiefs and assistant chiefs of appellate branch offices are authorized to enter into and approve closing agreements in cases under their jurisdiction docketed in the U.S. Tax Court but only in respect to related specific items affecting other taxable periods.

* * * * *

Par. 5. Section 601.702 is amended as follows:

1. Paragraph (f)(3)(i) is revised to read as set forth below.

2. Paragraph (f)(3)(ii) is amended by deleting "$3.50" and inserting in lieu thereof "$5.00".

3. Paragraph (f)(4)(i) is revised to read as set forth below.

§ 601.702 Publication and public inspection.

* * * * *

(f) *Fees for services.* * * *

(3) *Search services.* * * *

(i) Of personnel involved in locating records shall be $5.00 for each hour or fraction thereof, except that no charge shall be imposed for a search consuming less than one hour;

* * * * *

(4) *Duplication.* * * *

(i) Photocopies, per page up 8½" x 14", $0.10 each, except that no charge will be imposed for copying 10 pages or less when less than one hour is consumed in locating the records requested.

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 77-26943 Filed 9-15-77; 8:45 am]

Title 33—Navigation & Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Bering Sea, Shemya Island Area, Alaska

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: We are amending a regulation to allow for the relocation of a danger zone used by the U.S. Air Force near Shemya Island, Alaska, for meteorological rocket firing. Relocation of the danger zone will provide the U.S. Air Force more reliability in meeting firing schedules and an increased margin of safety for personnel.

DATE: Effective on October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard, 202-693-5070 or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: We published this revision in the notice of proposed rulemaking section of the FEDERAL REGISTER on July 18, 1977 with the comment period expiring on August 16, 1977. We received no comments and accordingly § 204.222b is amended as set forth below.

§ 204.222b In Bering Sea, Shemya Island Area, Alaska; meteorological rocket launching facility, Alaskan Air Command, U.S. Air Force.

(a) *The danger zone.* An arc of a circle with a 45-nautical-mile radius of the launch point centered at latitude 52°43'-30" N., longitude 174°06'05" E extending clockwise from 110° true bearing to 200° true bearing.

* * * * *

NOTE.—The Department of the Army 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.

(40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).)

Dated: September 2, 1977.

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

[FR Doc.77-26977 Filed 9-15-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT, AND SCHOLARSHIPS

Grants for Planning of Clinical Educational Programs

AGENCY: Public Health Service, HEW.

ACTION: Interim final regulations.

SUMMARY: These regulations prescribe requirements for grants for planning of clinical education programs pursuant to section 788(f) of the Public Health Service Act (hereinafter "the Act") (42 U.S.C. 295g-8(f), as amended by the Health Professions Education Assistance Act of 1976 (Pub. L. 94-484).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby deletes 42 CFR Part 57, Subpart A, entitled "Grants for Construction of

Health Research Facilities (including Mental Retardation Facilities)"[1] and substitutes therefor a new Subpart A, as set forth below, entitled "Grants for Planning of Clinical Education Programs."

A Notice of Intent to issue regulations for this program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised and several comments were received. The Department has taken these comments into consideration in developing these regulations.

The following is a brief summary of the major features of the regulations:

1. The regulations in this subpart require that the training programs for which planning is to be done be located in facilities which are other than the principal teaching facilities of the school and which are located in health manpower shortage areas. "Principal teaching facility" for purposes of this grant program, means facilities used by a school of medicine for training programs sponsored by more than one department of the school prior to application for funds under this grant program. This definition was chosen in order to further the Congressional purpose of assisting with costs incurred in developing educational sites in health manpower shortage areas in facilities which have not been previously utilized to a significant degree by departments of a school of medicine. (Section 57.2(f).)

2. The regulations in this subpart in accordance with statutory requirements specify that the planning project must have prior approval of the State legislature in which the proposed training program is to be located, and that the applicant must have received at least $100,000 in non-Federal funds to meet costs of the project. (Section 57.4(c) (2) and (3).)

3. The regulations require that projects plan for training programs to be located in health manpower shortage areas as designated under section 332 of the Act. However, it is anticipated that section 332 shortage area designations will not be available until early in fiscal year 1978 while grants under section 788(f) of the Act must be awarded prior to the close of fiscal year 1977 (i.e., prior to October 1, 1977). For these reasons applicants for grants under this subpart will be informed that although grants under section 788(f) may indeed be made prior to designation of shortage areas under section 332, expenditure of grant funds will be restricted to and contingent upon planning projects involving facilities in shortage areas as ultimately designated under section 332.

Prospective applicants were provided with the factors to be considered in making section 332 designations as well as a current list of shortage areas designated under section 329(b). They were informed that the list of section 329(b) areas served only as examples of possible areas in which projects could be planned, rather than an exclusive listing of all possible sites.

Because of the need for these regulations since grants under section 788(f) of the Act must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this program, the Secretary has determined pursuant to 5 U.S.C. 553 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations. Accordingly these regulations will be effective on September 16, 1977.

Notwithstanding the omission of proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period. Revisions thereto, although applicable to grants for planning of clinical education programs awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, the existing Subpart A of 42 CFR Part 57 is deleted, and a new Subpart A is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare 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: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart A—Grants for Planning of Clinical Education Programs

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AUTHORITY: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. § 216); section 788(f) of the Public Health Service Act, 90 Stat. 2321 (42 U.S.C. 295g-8(f)).

Subpart A—Grants for Planning of Clinical Education Programs

§ 57.1 Applicability.

The regulations in this subpart are applicable to the award of grants under section 788(f) of the Public Health Service Act (42 U.S.C. 295g-8(f)) to schools of medicine to assist in meeting the planning costs of projects for the training of medical students, enrolled in the last two years of such school, in facilities which are other than the principal teaching facilities of the school and which are existing Federal health care facilities or other public or private health care facilities and which are located in health manpower shortage areas. Grants under this subpart will not be made for feasibility studies.

§ 57.2 Definitions.

For purposes of this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

(c) "Fiscal year" means the Federal fiscal year beginning October 1 and ending on the following September 30.

(d) "Health manpower shortage area" means an area designated under section 332 of the Act.

(e) "Nonprofit" as applies to any school means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

(f) "Principal teaching facilities" means facilities used by a school of medicine for training programs sponsored by more than one department of the school prior to application for funds under this subpart.

(g) "Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

(h) "School of medicine" means a school which provides training leading to a degree of doctor of medicine and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of in-

[1] Section 201(a) of Pub. L. 94-484 repealed the authority for making grants for construction of health research facilities (section 704, Public Health Service Act, 42 U.S.C. 292c). Therefore, the regulations governing the award of such grants are deleted from the Code of Federal Regulations.

struction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(i) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(j) "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3 Eligibility.

Any public or nonprofit private school of medicine located in a State is eligible to apply for a grant under this subpart.

§ 57.4 Application.

(a) Each applicant desiring a grant under this subpart must submit an application at such time and in such form as the Secretary may prescribe.[3]

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A full and adequate description of the proposed project meeting the requirements of section 788(f) of the Act including:

(i) A description of the planning and developmental activities which have been accomplished by the applicant.

(ii) A description of the objectives of the proposed project with a time-phased work program.

(iii) A detailed budget for the proposed project and a justification of the amount of funds requested.

(iv) A description of the qualifications of all professional personnel to be involved in the project, including their professional backgrounds, academic training, responsibilities and functions.

(v) The estimated number of medical students enrolled in the last two years of the school just preceding the award of the degree of doctor of medicine who are scheduled for participation in the training program and the manner in which their participation will be obtained, e.g., required or elective.

(vi) A description of any clinical departments which have been scheduled for participation in the training program.

(vii) A description of the projected faculty resources and approaches to be utilized to determine the adequacy of such resources.

(viii) A description of any proposed facilities which have been scheduled to be used in the proposed training program, including a description of the approach to be utilized to assure that such facilities are adequate to accommodate the training program without reduction in the quality or quantity of health services delivered in the facilities.

(ix) A description of the proposed method for evaluating student and faculty performance in the training program.

(2) Evidence that, before the fiscal year in which the grant may be expended, the project has received the approval of the State legislature or legislatures in which the proposed training program is to be located.

(3) Evidence that, before the fiscal year in which the grant may be expended, the applicant has received at least $100,000 in non-Federal funds to meet costs of the project.

(4) A description of all the current facilities being used by the school.

(5) A description of the current educational programs being conducted by any clinical departments scheduled for participation in the proposed training program.

(6) A description of the current and projected financial resources available to support the proposed training program and evidence that such funds will be sufficient to assure the operation of the training program.

(7) Evidence that the applicable requirements of section 1513(e) have been met.

§ 57.5 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with the requirements of section 788(f), this subpart and the terms and conditions of the grant award.

(b) The project must plan for a training program which meets the requirements of section 788(f) and this subpart, to be operational within 12 months from the date of the grant award.

(c) The project must be conducted under the direction of a Project Director who is a full time employee of the grantee.

(d) The proposed training program must represent either (1) a new type of training experience for the students at the school; or (2) an expansion of such training experience to include greater numbers of students.

§ 57.6 Grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 788(f) of the Act, taking into consideration, among other pertinent factors:

(1) The potential of the project to meet its stated objectives.

(2) The administrative and managerial capability of the applicant to carry out the project.

(3) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(4) The extent to which the proposed training program will alleviate health manpower needs in health manpower shortage areas.

(5) The adequacy of the staff and faculty who will be available to carry out the training program.

(6) The potential of the training program to be implemented and continued on a self-sustaining basis.

(b) The Secretary will determine the amount of any award on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which the Secretary will calculate either (1) on the basis of his estimate of the actual indirect costs of the project, or (2) on the basis of a percentage of all or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limit of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee, which may not exceed one year.

§ 57.7 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.8 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 788(f) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Grants funds may only be expended for costs directly related to the design and development of training programs which meet the requirements of section 788(f) and this subpart; including salaries of professional and support staff, recruitment of faculty and related staff, domestic travel and purchase of supplies and equipment.

§ 57.9 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy pay-

[3] Applications and instructions may be obtained from the Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Room 4-44, 3700 East-West Highway, Center Building, Hyattsville, Md. 20782.

ment under Title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurances that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 74).

§ 57.10 Grantee accountability.

(a) *Accounting for grant award payments.*

The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 788(f) of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout—(1) Date of final accounting.* The grantee must render, with respect to each approved project, a full account, as provided therein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 57.11 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government, as those terms are defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government, as so defined, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.12 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:
- A. General.
- B. Cash depositories.
- C. Bonding and insurance.
- D. Retention and custodial requirements for records.
- F. Grant-related income.
- K. Grant payment requirements.
- L. Budget revision procedures.
- M. Grant closeout, suspension, and termination.
- O. Property.
- Q. Cost principles.

§ 57.13 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26716 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Training in Emergency Medical Services

AGENCY: Public Health Service, HEW.

ACTION: Interim-Final Regulations.

SUMMARY: The regulations set forth below amend the requirements for grants to assist in meeting the costs of training programs in the techniques and methods of providing emergency medical services pursuant to section 789 of the Public Health Service Act (42 U.S.C. 295g9).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, De-

partment of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby amends Subpart V, "Grants for Training in Emergency Medical Services," of 42 CFR Part 57 in order to take into account the amendments made to the existing authority for training in emergency medical services in Title VII of the Public Health Service Act by the Emergency Medical Services Amendments of 1976 (Pub. L. 94–573), as well as to revise the requirements on the basis of an evaluation of the operation of the preceding program.[1]

A Notice of Intent to issue regulations for this grant program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised and several comments were received. The Department has taken these comments into consideration in developing the regulations.

Subsequent to the publication of the Notice of Intent to issue regulations, section 789 was amended by section 306(k) of Pub. L. 95–83, the Health Services Extension Act of 1977 (August 1, 1977), which amended paragraph (1) of section 789(a) to authorize traineeships and fellowships to students who plan to specialize or work as physicians in the practice of emergency medicine. The Department intends to develop separate regulations governing traineeships and fellowships under section 789 as amended to be published in the FEDERAL REGISTER as a notice of proposed rulemaking.

The following is a brief summary of the major features of the regulations:

(A) The regulations, in accordance with section 789 of the Act, specify that these grants are available to schools of medicine, dentistry, osteopathy, and nursing; training centers for allied health professions; hospitals; and other appropriate educational and public entities.

(B) The regulations require, in accordance with section 789(g)(2) of the Act, that a minimum of 30 percent of funds appropriated for grants will be used to assist in meeting the costs of training and the establishment of programs for the training of physicians in emergency medicine.

(C) In addition to general requirements applicable to all grants made under this subpart, specific project requirements relating to the content and standards of programs for training in emergency medical services for medical technicians, both ambulance and paramedic, physicians, and nurses are included.

(D) The regulations provide that preference will be given to projects which have the following features, as appropriate:

(1) Training programs which provide clinical experience in emergency medical services systems receiving assistance under Title XII of the Act;

(2) Training programs which provide substantial portions of the training in health manpower shortage areas;

(3) Training programs which emphasize interdisciplinary approaches to emergency care;

(4) In the case of projects for the training of paramedics, the project is sponsored by an educational entity which grants academic credit for the training; and

(5) In the case of projects for the training of emergency physicians, the project is developing general emergency physician training resources as evidenced by an affiliation with, or training based at, a school of medicine or osteopathy with an administrative unit which is responsible solely for educational programs in emergency medical education: undergraduate, graduate, or continuing education.

Because grants under section 789 must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 U.S.C. 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant material received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective upon September 16, 1977. Revisions thereto, although applicable to grants for training in emergency medical services awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, Subpart V of 42 CFR Part 57 is amended to read as set forth below.

NOTE.—The Department of Health, Education, and Welfare, 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: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

[1] As amended by Pub. L. 94–573, the authority for emergency medical services training was section 776 of the Public Health Service Act. This section was renumbered section 789 by section 801(b) of the Health Professions Educational Assistance Act of 1976, Pub. L. 94–484.

Subpart V—Grants for Training in Emergency Medical Services

Sec.

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AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended 63 Stat. 35 (42 U.S.C. 216); Sec. 789, Public Health Service Act, 90 Stat. 2213, as amended 90 Stat. 2709 (42 U.S.C. 295g–9).

§ 57.2101 Applicability.

The regulations in this subpart are applicable to the award of grants under section 789 of the Act (42 U.S.C. 295g–9) to schools of medicine, dentistry, osteopathy, and nursing; training centers for allied health professions; hospitals, and other appropriate educational and public entities to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services.

§ 57.2102 General policy.

Grant awards will be made under this subpart for the purpose of assisting eligible entities in the establishment, improvement, or expansion of training programs in the techniques and methods of providing emergency medical services, which will contribute to the establishment, operation, improvement, or expansion of emergency medical services systems.

§ 57.2103 Definitions.

(a) "Act" means the Public Health Service Act as amended.

(b) "Advanced Life Support Facility" or "ALS facility" means a hospital with facilities and services specifically designed for the care of critical illnesses and injuries such as trauma, including burns and spinal cord injuries, acute cardiac disorders, high risk infants, poisoning, and behavioral problems, including acute alcohol intoxication, drug overdose and psychiatric injuries.

(c) "Appropriate public entity" means a State, a unit of general local government, or any other public entity which:

(1) Has established an emergency medical services system; and

(2) Except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate education entity for a training program supported under this subpart.

(d) "Associate advanced life support facility" or "associate ALS facility" means a health care delivery facility that interrelates in terms of areawide advanced life support planning (includes educational planning) with a designated advanced life support facility.

(e) "Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

(f) "Clinical experience" means direct, supervised participation in patient care by observation, examination, and performance of procedures as are appropriate for the assigned role of the trainee on the health team.

(g) "Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

(h) "Educational entity" means:

(1) A public or nonprofit private school of medicine, dentistry, or osteopathy as defined in section 701(4) of the Act, which is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accrediting body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application;

(2) A school of nursing as defined in section 853(2) of the Act;

(3) A training center for allied health professions, as defined in section 795(2) of the Act; or

(4) A public or nonprofit private organization which has the provision of educational programs as one of its major functions and which itself delivers emergency medical services or has a written agreement with an organization which delivers such services whereby such organization will provide the setting for the clinical experience required for the proposed training.

(i) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(j) "Emergency medical services council" means a public agency or a formally established or recognized advisory body of a public agency responsible for review and evaluation of emergency medical services in the area of the project.

(k) "Emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for effective and coordinated delivery of health care services in an appropriate geographical area under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system.

(l) "Emergency medical services systems director" means the designated person responsible for overall direction of the emergency medical services system in the geographic area of the system.

(m) "Emergency medical technicians — paramedic" means persons trained to provide advanced life support services including trauma and cardiac care, and other critical medical prehospital care for acutely ill or injured patients (i.e., treatment of shock, drug administration, and cardiac arrhythmia detection and control).

(n) "Emergency nursing" means the unscheduled nursing care of individuals with acute physical or emotional injuries and illnesses which require prompt intervention.

(o) "Emergency physician" means a licensed physician who is trained to and engages in:

(1) The immediate recognition, evaluation, and care of acutely ill or injured patients under emergency conditions;

(2) The administration, research, and teaching of all aspects of emergency medical services; and

(3) The direction of the patient to sources of follow-up care in or outside the hospital, as required.

(p) "Grant project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the programs being supported by the grant, including the performance of the training program director's grant-supported activities.

(q) "Medical director" means an emergency physician who provides medical direction for the entire program of clinical instruction and evaluates students' clinical experience.

(r) "Nonprofit" as applied to any educational entity means one which is a corporation or association or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(s) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(t) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(u) "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(v) "Training program director" means an individual designated to provide competent overall direction and coordination for the organization, administration, periodic review, continued development, and effectiveness of the educational program.

§ 57.2104 Eligibility.

Any educational entity, appropriate public entity, or public or nonprofit private hospital located in a State may apply for a grant under this subpart.

§ 57.2105 Application.

(a) Each eligible applicant desiring a grant under this subpart must submit an application at such time and in such form as the Secretary may prescribe.[2] For State and local governments, as those terms are defined in Subpart A of 45 CFR Part 74, attention is called to the forms required by Subpart N of 45 CFR Part 74.

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations in this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A detailed description of the proposed project which meets the applicable requirements of § 57.2106 including:

(i) A description of the specific measurable objectives of the proposed project which are consistent with the purposes of section 789 of the Act, and a detailed plan for achieving those objectives;

(ii) A description of the administrative staff and faculty available for the conduct of the proposed project, including their professional background, qualifications, academic training, responsibilities, and functions;

(iii) A description of the facilities, equipment, and educational resources available for the conduct of the proposed project;

(iv) A description of any cooperative arrangements with other institutions, agencies, or organizations for carrying out the proposed project, including arrangements for the provision of clinical practice facilities;

(v) A detailed description of the curriculum for the training program;

(vi) A description of recruitment plans and criteria for the selection and admission of students, including the extent to which the program intends to emphasize the recruitment and necessary training of veterans of the Armed Forces with military training and experience in health care fields and of appropriate public safety personnel, which include policemen, fire fighters, and other public employees charged with maintaining public safety;

(vii) An estimate of the number of individuals to be trained in each training cycle;

(viii) A detailed budget for the proposed project and a justification of the amount of grant funds requested;

(ix) A description of the financial resources available to the applicant to

[2] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782.

assure the sound establishment and maintenance of the proposed project, including a description of the extent to which funds have either been sought by or have been made available to the applicant from Federal programs authorized by statutes other than the Act for the support of the proposed project; and

(x) A description of the plans, if any, for continuing the proposed project beyond the project period.

(2) Evidence of the unavailability of educational programs necessary to supply and maintain sufficient numbers of emergency physicians, dentists, nurses, allied health personnel, and emergency medical technicians (ambulance and paramedic) needed to provide emergency health services on a 24-hour basis in the geographic area for which the applicant proposes to train such personnel.

(3) Evidence that the proposed project is coordinated with other programs (existing or planned) in the geographic area for which the applicant proposes to train emergency medical personnel.

(4) Evidence that all applicable requirements of section 1513(e) of the Act have been met.

(5) Evidence that the proposed project has been submitted for review to the emergency medical services system director, the emergency medical services council, if any, and any other entities responsible for review of emergency medical services in the geographic area for which the applicant proposes to train emergency medical personnel. Copies of any written comments received pursuant to such reviews must be submitted to the Secretary.

§ 57.2106 Project requirements.

(a) *General requirements.* A project supported under this subpart must be conducted in accordance with the following requirements:

(1) The project must be conducted in accordance with section 789 of the Act, the regulations of this subpart, the approved application, and the terms and conditions of the award.

(2) The project must provide a training program which meets relevant standards and guidelines established by appropriate:

(i) Accrediting bodies recognized by the Commissioner of Education,

(ii) Federal or State agencies, or

(iii) Professional associations;

unless the Secretary determines for demonstration purposes that the requirement of this paragraph should be waived on an application by application basis.

(3) The project must provide the training necessary to enable its graduates to meet any relevant laws or regulations governing employment standards or credentials for emergency medical personnel in the geographic area for which the applicant proposes to train such personnel.

(4) The project must have a systematic plan for evaluating the training program, including the performance of the students, the degree to which defined objectives are met, and the impact of the program on the delivery of emergency medical services in the geographic area for which the project proposes to train emergency medical personnel.

(5) The project must have an appropriate setting for the clinical experience required for the training which must be provided either by the grantee or through a written agreement with an organization delivering emergency medical services. The facility chosen for the clinical experience must have major emergency medical capabilities and adequate patient volume and must deliver a variety of emergency medical services.

(6) The project must have available adequate faculty, staff, facilities, and equipment for the conduct of the training program.

(7) The project must have a grant project director. The grant project director may also be a training program director. If the grant project director becomes unable to function in such capacity, the Secretary must be notified as soon as possible.

(8) The project must have a training program director who:

(i) Supervises (A) the processing of student applications and the selection of students, (B) the maintenance of a complete inventory of all training equipment available to the program, and (C) the scheduling of classes and assignment of instructors, insuring that the required equipment and materials are available at each class;

(ii) Assists in instruction, as appropriate, and in the coordination of the examination and evaluation of students, including the preparation of assessment materials;

(iii) Counsels students on an individual basis;

(iv) Serves as liaison between students, program staff, and the sponsoring institution and its affiliates; and

(v) Prepares the program budget.

(9) The project must establish and utilize uniform student selection criteria.

(10) The project must maintain a record of the participation in the program and the level of competence attained by each student.

(11) The grantee must provide the students with a statement of satisfactory completion of the course.

(b) *Specific requirements.* In addition to the requirements of paragraph (a) of this section, projects for the training of emergency medical technicians (ambulance and paramedic), emergency nursing personnel, or emergency physicians must also meet the following specific requirements, as appropriate:

(1) *Projects for the training of emergency medical technicians-ambulance.* The project must either: (i) Meet the guidelines prescribed by the Department of Transportation and set forth in DHEW Publication No. (HSA) 74-2027, (January 1974) which is hereby incorporated by reference and made a part hereof. Copies of this document may be obtained, free of charge, from the Public Health Service, Department of Health, Education, and Welfare, P.O. Box 911, Rockville, Maryland, 20853; or

(ii) demonstrate that at least 75 percent of the graduates of such program either pass the National Registry of Emergency Technicians examination within six months after graduation or meet applicable State requirements which are determined by the Secretary to equal or exceed Department of Transportation guidelines.

(2) *Projects for the Training of emergency medical technicians-paramedic.* (i) The training program must prepare students to meet the performance standards contained in Appendix A of the "National Training Course Guide for Emergency Medical Technician-Paramedic," hereinafter the "Course Guide," developed by the Department of Transportation's National Highway Traffic Safety Administration, which is hereby incorporated by reference and made a part hereof. Copies of this document may be obtained, free of charge, from the United States Department of Transportation, National Highway Traffic, Safety Administration, Washington, D.C. 20510.

(ii) The course goals by module and course content of the training program must conform to those outlined in Appendices B and C of the Course Guide.

(iii) The clinical experience must be based at a school of medicine or osteopathy, hospital or other health care delivery facility which can assure sufficient medical supervision and clinical experience as set forth in the Course Guide. A substantial portion of this experience must be in an ALS facility or in an associate ALS facility which has appropriate resources.

(iv) Only individuals who have a high school diploma or equivalent degree may be enrolled in the training program.

(v) The project must have a medical director. The medical director may be the training program director.

(vi) The project must provide for the continuing education of the faculty in content areas related to their educational responsibilities.

(3) *Projects for the training of emergency nursing personnel.* (i) The project must meet the "Standards of Emergency Nursing Practice" developed by the American Nurses' Association and the Emergency Department Nurses' Association (ANA Publication Code MS-S), or equivalent standards as determined by the Secretary. This document is hereby incorporated by reference and made a part hereof. Copies can be obtained, free of charge, from the Emergency Department Nurses' Association, P.O. Box 1566, East Lansing, Michigan 48823.

(ii) The training program director must be a registered nurse with at least one year of experience and education in emergency nursing patient care and experience in baccalaureate nursing education.

(iii) The project must have a medical advisor who is an emergency physician and will advise the training program director regarding medical control and supervision in the clinical environment.

(iv) Only individuals who are licensed registered nurses or are full-time students in a school of nursing and have completed courses in basic patient care, maternal and child health, mental health and medical-surgical nursing may be enrolled.

(4) *Projects for the residency training of emergency physicians.* (i) The training program must be a graduate medical education program in emergency medicine which is endorsed or provisionally endorsed by, or has a letter granting permission to recruit residents from, the Liaison Residency Endorsement Committee in emergency medicine.

(ii) The training program must provide training designed to familiarize the resident with:

(A) The functions of an emergency medical services system as listed in section 1206(b)(4)(C) of the Act;

(B) The interaction among the organizations and agencies which deliver emergency health services; and

(C) The management and organization of an emergency unit.

(iii) The grantee must sponsor at least two other types of approved graduate medical education programs (e.g., internal medicine, general surgery, family practice).

(iv) The training program may be up to three years in length, but no less than two years. In the case of a three-year program the first year must include general clinical experience. The last two years must include increased training and responsibilities in the emergency department with the resident assigned to other specialties to learn specific skills applicable to emergency care.

(v) The training program must be conducted in an emergency unit which is organized as a major service within an ALS or associate ALS facility.

(vi) The project must have a medical director who works full time in an emergency unit.

(vii) The project must have a training program director. The training program director may also be the medical director.

(viii) The project must provide for the continuing education of the faculty in content areas related to their educational responsibilities.

(5) *Projects for the continuing education of physicians.* (i) Only individuals who are emergency physicians or physicians actively involved in an emergency medical services system may be enrolled.

(ii) The project must fulfill requirements for Category I Continuing Medical Education credit as approved by the American College of Emergency Physicians and the University Association of Emergency Medicine.

§ 57.2107 Evaluation of applications.

(a) The Secretary will, after consultation with the Council, approve or disapprove all applications filed in accordance with § 57.2105, taking into consideration, among other pertinent factors:

(1) The degree to which the proposed project adequately provides for meeting the requirements in § 57.2106.

(2) The potential effectiveness of the proposed project in carrying out the training purposes of section 789 of the Act.

(3) The administrative and managerial capability of the applicant to carry out the proposed project.

(4) The local and national needs which the proposed project is designed to serve.

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(6) The potential of the project to continue on a self-sustaining basis after the project period.

(b) In determining the priority for funding of applications approved under paragraph (a) of this section, the Secretary will consider:

(1) The relative merit of the proposed project based upon the factors in paragraph (a) of this section; and

(2) The extent to which the proposed project contains any of the following elements:

(i) All training programs in the proposed project provide clinical experience in emergency medical services systems receiving assistance under Title XII of the Act.

(ii) Substantial portions of the training is conducted in health manpower shortage areas. For purposes of this paragraph, a health manpower shortage area is (A) an area designated under section 332 of the Act, or (B) prior to the designation of areas under section 332 of the Act, an area designated as a critical health manpower shortage area under sections 329(b) and 836 of the Act, as in effect on September 30, 1977.

(iii) All training programs in the proposed project emphasize interdisciplinary approaches to emergency medical services.

(iv) In the case of projects for the training of emergency medical technicians-paramedic, the proposed project is sponsored by an educational entity which grants academic credit for the training.

(v) In the case of projects for the training of emergency physicians, the project is designed to train emergency physicians while developing general emergency physician training resources. As evidence that the program is so designed, the applicant must:

(A) Be a school of medicine or osteopathy with an administrative unit which is responsible solely for educational programs in emergency medicine and involved in more than one of the following phases of emergency medical education: undergraduate, graduates or continuing education; or

(B) Be affiliated with a school of medicine or osteopathy described in paragraph (b)(2)(v)(A) of this section.

§ 57.2108 Grant award.

(a) *General.* (1) Within the limits of funds available for such purpose, the Secretary, may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 789 of the Act, as determined in accordance with § 57.2107.

(2) All grant awards will be in writing, and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(3) Neither the approval of any project or the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may prescribe.

(b) *Determination of grant amount.* The Secretary will determine the amount of any award under this subpart on the basis of his estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which the Secretary will calculate either (1) on the basis of his estimate of the actual indirect costs of the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended the grantee for provisional items.

(c) *Noncompeting continuation awards.* If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if, on the basis of such progress and accounting records as may be required, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide financial support for the orderly phase-out of the supported project, if he determines that such support is necessary.

§ 57.2109 Payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2110 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 789 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2111 Nondiscrimination.

(a) Attention is called to the requirements of Section 704 of the Act and 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless he receives satisfactory assurance that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation are subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 F.R. 12319 (Sept. 24, 1965), as amended, and with the applicable rules, regulations and procedures prescribed pursuant thereto.

(f) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2112 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 789 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise except that any grantee that is a State or local government, as defined in 45 CFR § 74.3, which receives royalties in excess of $200 a year, must return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal Government, unless a specific agreement provides otherwise.

(c) *Grant closeout.* (1) *Date of final accounting.* A grantee must submit with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and

(ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other action is provided by law.

§ 57.2113 Publications and copyright.

(a) *State and local governments.* If the grantee is a State or local government, as those terms are defined in 45 CFR 74.3, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 applies with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* If the grantee is not a State or local government, as so defined, except as may otherwise be provided under terms and conditions of the award, the grantee may copyright without prior approval any publication, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive and irrevocable license or right in the government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.2114 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

Subpart:

A. General.
B. Cash Depositories.
C. Bonding and Insurance.
D. Retention and Custodial Requirements for Records.
F. Grant-related Income.
G. Matching and Cost Sharing.
K. Grant Payment Requirements.
L. Budget Revision Procedures.
M. Grant Closeout, Suspension, and Termination.
O. Property.
Q. Cost Principles.

§ 57.2115 Records, audit, and inspection.

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain

such records as the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to such grantee from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of such audit must be filed with the Secretary at such time and in such manner as the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all such books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon a reasonable request therefor.

§ 57.2116 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

NOTE.—The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on July 25, 1977 and are on file in the FEDERAL REGISTER library.

[FR Doc.77-26717 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Training United States Citizen Foreign Medical Students

AGENCY: Public Health Service, HEW.

ACTION: Interim final regulations.

SUMMARY: These regulations set forth pursuant to section 782 of the Public Health Service Act (hereinafter "the Act") (42 U.S.C. 295g-2), as amended by the Health Professions Education Act of 1976 (Public Law 94-484), requirements for grants to plan, develop, and operate training programs for U.S. citizens who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements of enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

DATES: These regulations are effective on September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, Center Building, 4th Floor, 3700 East-West Highway, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, hereby adds a new subpart DD, "Grants for Training United States Citizen Foreign Medical Students," to 42 CFR Part 57.

A Notice of Intent to issue regulations for this grant program was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised, and several comments were received. The Department has taken these comments into consideration in developing the proposed regulations set forth in tentative form below.

The regulations under this subpart, in accordance with section 782 of the Public Health Service Act, specify requirements for grants to plan, develop, and operate programs for United States citizens who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements of enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing (hereinafter referred to as "Category I Training Program"); or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing (hereinafter referred to as a "Category II Training Program"). With respect to this requirement, the regulations include definitions for the terms "advanced standing" (§ 57.2902(b)), "foreign medical school" (§ 57.2902(e)), "foreign medical student" (§ 57.2902(f)), "full-time student" (§ 57.2902(g)), "school of medicine or osteopathy" (§ 57.2902(l)), and "State" (§ 57.2902(m)).

The regulations require that both the Category I and II Training Programs have at least four United States citizen foreign medical student participants, and that each Program systematically evaluate and monitor the progress of its foreign medical student participants throughout their training.

In addition to the general requirements for Category I and II Training Programs, the regulations also delineate special requirements for these Programs reflecting the statutory differences between the two. Since the Category I Training Program will be conducted for those foreign medical students who have not transferred to a school of medicine or osteopathy in a State but are interested in making such a transfer, the regulations require a school of medicine or osteopathy awarded a grant under this subpart to plan, develop, and operate a Category I Training Program to (1) identify the deficiencies in the foreign medical school education of each foreign medical student participating in the training program, (2) assess by examination or other appropriate mechanisms each foreign medical student's medical knowledge and skills in the basic, clinical, and behavioral sciences and provide, where necessary, supplemental training in these subject areas, (3) provide each foreign medical student participant with an evaluation of his overall performance (including examination scores) upon completion of the training program, and (4) counsel the foreign medical students who have completed the training program with respect to gaining admission as full-time students with advanced standing to schools of medicine or osteopathy located in a State.

While the purpose of the Category I Training Program is to enable foreign medical students to enroll in schools of medicine or osteopathy as full-time students with advanced standing, the purpose of the Category II Training Program is to provide remedial instruction to foreign medical students who have been admitted to the applicant school of medicine or osteopathy. With respect to Category II Training Programs the regulations require a school of medicine or osteopathy receiving a grant under this subpart to plan, develop, and operate such a training program to (1) assess the medical knowledge and skills of the foreign medical students enrolled in the applicant school of medicine or osteopathy and compare the degree of their knowledge and skills with that possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same academic level as the foreign medical student, and (2) provide supplemental training to each foreign medical student whose medical knowledge and skills are not comparable to the degree of medical knowledge and skills possessed by students enrolled and trained in the

applicant school of medicine or osteopathy at the same academic level as the foreign medical student in order to bring the foreign medical student to a degree of competency equal to such students.

Because grants under section 782 must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 U.S.C. 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective upon September 16, 1977. Revisions thereto, although applicable to grants for training U.S. citizen foreign medical students awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, a new Subpart DD is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare 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: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart DD—Grants for Training United States Citizen Foreign Medical Students

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57.2901 Applicability.
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57.2914 Records, audit, and inspection.
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AUTHORITY: Section 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. § 216); section 782 of the Public Health Service Act, 90 Stat. 2314 (42 U.S.C. 295g-2).

§ 57.2901 Applicability.

The regulations of this subpart are applicable to the award of grants under section 782 of the Public Health Service Act (42 U.S.C. 295g-2) to schools of medicine and osteopathy to plan, develop, and operate training programs for United States citizens, who were students in foreign medical schools before October 12, 1976, (1) to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing, or (2) to train such students who have transferred from foreign medical schools and have enrolled in schools of medicine and osteopathy in the States as full-time students with advanced standing.

§ 57.2902 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Advanced standing" means the level of academic placement beyond the first year of training at a school of medicine or osteopathy in a State.

(c) "Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award.

(d) "Council" means the National Advisory Council on Health Professions Education (established by section 702 of the Act).

(e) "Foreign medical school" means a school (1) which is not located in a State, (2) which provides a full course of study leading to a medical degree or a diploma, and (3) whose medical degree or diploma is accepted by the country in which such school is located as one of the necessary qualifications for official sanction or licensure to practice medicine in that country.

(f) "Foreign medical student" means a U.S. citizen who was a student in a foreign medical school before October 12, 1976, and who is either: (1) seeking to transfer to a school of medicine or osteopathy in a State as a full-time student with advanced standing, or (2) has enrolled in a school of medicine or osteopathy in a State as a full-time student with advanced standing.

(g) "Full-time student" means a student who is enrolled in a school in a State on a full-time basis, as determined by such school, and is pursuing a course of study leading to a degree specified in paragraph (1) of this section.

(h) "Nonprofit school" means a school owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(i) "Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

(j) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(k) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(l) "School of medicine or school of osteopathy" means a school which provides training leading to a degree of doctor of medicine or a degree of doctor of osteopathy and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(m) "State" means one one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.2903 Eligibility.

(a) *Eligible applicants.* Any public or private nonprofit school of medicine or osteopathy located in a State may apply for a grant under this subpart.

(b) *Eligible projects.* Grants under this subpart may be made to eligible applicants to meet the costs of planning, developing, and operating projects to carry out either one or both of the following purposes:

(1) To train United States citizens who were enrolled in foreign medical schools before October 12, 1976, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or

(2) To train United States citizens who were enrolled in foreign medical schools before October 12, 1976, and who have transferred from foreign medical schools and have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

§ 57.2904 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in such form and at such

time as the Secretary may prescribe.[1] More than one school may join in the submission of an application for a grant under this subpart.

(b) The application may be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain the following:

(1) A description of the proposed project to carry out either one or both of the purposes specified in § 52.2903(b).

(2) A description of any previous similar training activities in which the applicant has engaged.

(3) A description of the resources available for the conduct of the proposed project, including faculty, staff, equipment, facilities, and where applicable, the clinical practice setting or settings.

(4) A description of the background and qualifications of the project staff and any proposed consultants.

(5) A description of the proposed recruitment plans and criteria for admission to the training program.

(6) An estimate of the number of students to be enrolled in the training program.

(7) A description of the proposed plan and methods of identifying the deficiencies in the foreign medical school education of the United States citizen foreign medical students participating in the training program as required by § 57.2905 of this subpart.

(8) A description of the proposed training program for correcting deficiencies including the proposed curriculum, the proposed number of hours for classroom instruction, and proposed laboratory demonstrations, lectures, and seminars.

(9) A description of the proposed plan to counsel foreign medical students who have completed a § 57.2903(b)(1) training program with respect to gaining admission as full-time students with advanced standing to schools of medicine or osteopathy located in the States.

(10) A detailed timetable for carrying out the activities of the proposed project.

(11) A detailed method for monitoring and evaluating the performance of the foreign medical student participants, and of the overall project.

(12) A detailed budget for the proposed project and a justification of the amount of grant funds requested.

§ 57.2905 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with section 782 of the Act, the regulations of this subpart, the terms and conditions of the award, and the approved application.

(b) The project must be conducted under the direction of a project director who must be on the full-time faculty of a school submitting an application under this subpart. If the project director becomes unable to function in such capacity, the Secretary must be notified as soon as possible.

(c) Each training program must have at least four foreign medical student participants.

(d) Each project must systematically evaluate and monitor the progress of the foreign medical student participants during their training.

(e) If the project is designed to carry out the purpose of training foreign medical students to enable them to meet the requirements of enrolling in a school of osteopathy or medicine in a State (§ 57.2903(b)(1)), the project must:

(1) Identify the deficiencies in the foreign medical school education of each foreign medical student, including those subject areas which are lacking because such subjects are not part of the foreign medical school curricula, are not taught within a time-frame comparable to the curricula of U.S. schools of medicine or osteopathy or do not correspond sufficiently to subject areas taught in such schools; and provide training to correct such deficiencies;

(2) Assess by examination or other appropriate mechanisms each foreign medical student's medical knowledge and skills in the basic, clinical, and behavioral sciences and provide, where necessary, supplemental training in these subject areas;

(3) Provide each foreign medical student with an evaluation of his overall performance, including examination scores, upon completion of the training program; and

(4) Counsel the foreign medical students who have completed the training program with respect to gaining admission as full-time students with advanced standing in schools of medicine or osteopathy located in the States.

(f) If the project is designed to carry out the purpose of training foreign medical students who have enrolled in a school of medicine or osteopathy in a State (§ 57.2903(b)(2)), the project must:

(1) Assess the medical knowledge and skills of the foreign medical students enrolled in the applicant school of medicine or osteopathy and compare the degree of their knowledge and skills with that possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same academic level as the foreign medical student; and

(2) Provide supplemental training to each foreign medical student whose medical knowledge and skills are not comparable to the degree of medical knowledge and skills possessed by students enrolled and trained in the applicant school of medicine or osteopathy at the same level as the foreign medical student in order to bring the foreign medical student to a degree of competency equal to such students.

§ 57.2906 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will in his judgment best promote the purposes of section 782(a) of the Act, taking into consideration among other pertinent factors:

(1) The potential effectiveness of the proposed project in carrying out the purposes of § 57.2903(b).

(2) The reasonableness of the criteria for selection and enrollment of participants into the training program.

(3) The adequacy of the plan for identifying deficiencies in the medical education of the foreign medical students as required by § 57.2905 of this subpart.

(4) The adequacy of the proposed curriculum designed to correct such deficiencies.

(5) The administrative and managerial capability of the applicant to carry out the proposed project.

(6) The availability and adequacy of the resources available to the applicant to carry out the proposed project, including faculty, staff, equipment, and facilities.

(7) The qualifications of the project director.

(8) The reasonableness of the proposed budget in relation to the proposed project.

(9) The adequacy of the methods for monitoring and evaluating the performance of the foreign medical student participants, and of the overall project.

(b) The amount of any award will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limit of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee. The project period for any

[1] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

grant under this subpart may not exceed four years.

(d) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make any additional supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support grantees must make separate application at such times and in such form as the Secretary may prescribe.

(e) If a grantee has filed an application for continuation support, and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project where the Secretary finds, on the basis of such progress and accounting reports as may be required, that the project's activities during the current budget period justify continued support for an additional budget period. If the Secretary determines to continue support, the amount of grant award will be determined in accordance with paragraph (b) of this section. If the Secretary determines not to continue a project for an additional budget period, the grantee will be notified in writing before the end of the current budget period. In addition, if he determines such support is necessary, the Secretary may provide financial support for the orderly phase-out of the project.

§ 57.2907 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2908 Expenditure of grant funds.

(a) Funds granted pursuant to this subpart may be expended solely for carrying out the approved project in accordance with section 782 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided*, That such funds may not be expended for sectarian instruction or for any religious purpose.

(b) Funds granted pursuant to this subpart may be used to, among other things, identify deficiencies in the foreign medical education of foreign medical students, develop materials and methodology for correcting such deficiencies, and develop specialized training to prepare foreign medical students for enrollment in schools of medicine or osteopathy in the States as full-time students with advanced standing.

(c) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.2909 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (42 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965) as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2910 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart: *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 782 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout.* (1) *Date of final accounting.* A grantee must render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to the approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.2911 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 57.2912 Reports.

In addition to such other reports as the Secretary may require, each school of medicine or osteopathy awarded a grant pursuant to this subpart during the fiscal year beginning October 1, 1977, and ending September 30, 1978, must submit to the Secretary before June 30, 1979, a report of any deficiencies identified in the foreign medical school education of foreign medical students who participated in the training project for which the grant was made. A draft copy of this report must be submitted to the Secretary by April 30, 1979.

§ 57.2913 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles apply to all grants awarded pursuant to this subpart.

Subpart:
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 57.2914 Records, audit and inspection.

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain such records as the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to such grantee from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of such audit must be filed with the Secretary at such time and in such manner as the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all such books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon a reasonable request therefor.

§ 57.2915 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26718 Filed 9-15-77;8:45 am]

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Grants for Development of New Schools of Medicine Emphasizing Family Medicine

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations prescribe requirements for grants for the development of new schools of medicine emphasizing family medicine under section 788(g) of the Public Health Service, (hereinafter the Act), (42 USC 295g-8 (g)), as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) to enable such schools to meet the eligibility requirements of section 788(a) of the Act (42 USC 295g-8(a)).

DATES: These regulations are effective September 16, 1977. As discussed below, comments on the regulations are invited. Comments must be received on or before November 15, 1977, in order to be considered.

ADDRESSES: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782.

All comments received will be available for public inspection and copying at the Office of Program Operations, Bureau of Health Manpower, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Daniel N. Masica, M.D., Deputy Director, Division of Medicine, Bureau of Health Manpower, Room 4-44 at the above address. Telephone: 301-436-6424.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare hereby adds a new subpart EE, "Grants for Development of New Schools of Medicine Emphasizing Family Medicine," to 42 CFR Part 57.

A notice of intent to issue regulations for grants for development of new schools of medicine emphasizing family medicine was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433). Interested persons were invited to comment on the issues raised, and several comments were received. The Department has taken these comments into consideration in developing the regulations set forth below.

The following is a brief summary of the major features of the regulations.

1. The regulations in this subpart require each applicant to plan a curriculum for its new school of medicine which will emphasize training in family medicine. To demonstrate this emphasis the applicant must establish an administrative unit devoted to family medicine at the graduate and undergraduate levels and require educational experiences in family medicine as a prerequisite of graduation for every undergraduate student. It is the Secretary's view that these requirements represent the minimum level of activity necessary to adequately demonstrate the commitment to family medicine required by the statute. The imposition of any additional requirements in this area would tend to restrict the applicant's flexibility in developing a school that best meets the needs of the school's community.

"Family medicine" for purposes of this grant program, means the field of medicine in which the physician:

(1) Serves as the physician of first contact with patients across a broad spectrum of ages and provides a means of entry into the health care system;

(2) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of his care;

(3) Assumes the responsibility for the patient's comprehensive and continuous health care and acts as a leader or coordinator of others providing health services to the patient; and

(4) Accepts responsibility for the patient's total health care within the context of his environment, including the community and the family or comparable social unit.

This definition was chosen in order to recognize the Congressional intent that the family medicine specialty be predicated upon the provision of continuing comprehensive care to all members of the family on a personal basis.

2. The regulations under this subpart require that no grant award may exceed 50 percent of the total allowable direct costs necessary to accomplish the goals identified in the application. The types of costs considered allowable include the cost of personnel, supplies, equipment, consultant fees, and domestic travel of staff and consultants. The 50 percent limitation has been included to assure, as required by statute, that non-Federal financial resources will be used for the development of the applicant's school of medicine. In addition, the Secretary views an applicant's ability to obtain non-Federal resources as a critical indicator of the new school's viability.

3. In accordance with the statutory requirement that grants awarded under this subpart be used to enable a new school of medicine to meet the eligibility requirements of the Start-Up Grant Program under section 788(a) of the Act (42 USC 295g–8(a)), the regulations specify that the applicant assure that at least 24 students will be enrolled in the initial class of its school of medicine, and that it describe the tasks necessary to be accomplished in order for the new school to obtain a Letter of Reasonable Assurance from a recognized accrediting body approved by the Commissioner of Education.

Because grants under section 788(g) must be awarded prior to October 1, 1977, and in light of the public participation that has already taken place with respect to this grant program, the Secretary has determined pursuant to 5 USC 553 and Departmental policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments, data, views, and arguments relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant material received not later than November 15, 1977, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations will be published within 90 days of the close of the comment period.

The regulations as set forth below will be applicable and effective September 16, 1977. Revisions thereto, although applicable to grants for development of new schools of medicine emphasizing family medicine awarded after publication of these regulations, will be applicable only with respect to activities conducted under such grants on or after the date that the revisions become effective.

Accordingly, a new Subpart EE is added to 42 CFR Part 57 and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare 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: August 30, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 6, 1977.

HALE CHAMPION,
Acting Secretary.

Subpart EE—Grants for Development of New Schools of Medicine Emphasizing Family Medicine

Sec.

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57.3014 Additional conditions.

AUTHORITY: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended 63 Stat. 35 (42 U.S.C. § 216); section 788(g) of the Public Health Service Act, 90 Stat. 2321 (42 U.S.C. 295g–8(g)).

§ 57.3001 Applicability.

The regulations of this subpart are applicable to the award of grants under section 788(g) of the Public Health Service Act (42 USC 295g–8(g)) to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist in meeting the costs of initial operation, including employing faculty, acquiring equipment, and taking such other action necessary for such proposed school to meet the eligibility requirements for a grant under section 788(a) of the Public Health Service Act (42 U.S.C. 295g–8(a)).

§ 57.3002 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Council" means the National Advisory Council on Health Professions Education (established by section 702 of the Act).

(c) "Family medicine" means the field of medicine in which the physician:

(1) Serves as the physician of first contact with patients across a broad spectrum of ages and provides a means of entry into the health care system;

(2) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of his care;

(3) Assumes the responsibility for the patient's comprehensive and continuous health care and acts as a leader or coordinator of others providing health services to the patient; and

(4) Accepts responsibility for the patient's total health care within the context of his environment, including the community and the family or comparable social unit.

(d) "Nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association or is owned and operated by one or more corporations or associations no part of the net earnings of which enure or may lawfully enure to the benefit of any private shareholder or individual.

(e) "Health care delivery facilities" means facilities in which a principal use is the delivery of health services.

(f) "Project period" means the total time for which support for a project has been approved, including any extensions thereof.

(g) "Secretary" means the Secretary of Health, Education, and Welfare and any officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(h) "School of medicine" or "school" means a school which provides training leading to a degree of doctor of medicine and is accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. A school which by reason of no, or an insufficient, period of operation is not eligible for such accreditation at the time it applies for a grant under this subpart will be considered accredited for purposes of this definition if the Commissioner of education finds, after consultation with the appropriate accreditation body or bodies, there is reasonable assurance that the school will meet the accreditation standards of such body or bodies before the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at the school during the fiscal year in which the Secretary makes a final determination as to approval of the application.

(i) "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3003 Eligibility.

Any public or nonprofit private institution of higher education, hospital, or other health care delivery facility engaged in the development of a new school of medicine located in a State may apply for a grant under this subpart.

§ 57.3004 Application.

(a) Each eligible applicant desiring a grant under this subpart must submit an application in such form and at such time as the Secretary may prescribe.[1]

[1] Applications and instructions may be obtained from the Director, Division of Medicine, Bureau of Health Manpower, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, and the Regional Health Administrator of the Regional Office of the Department of Health, Education, and Welfare for the region in which the applicant is located.

(b) The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to such other pertinent information as the Secretary may require, an application for a grant under this subpart must set forth in detail:

(1) A description of the educational, service, and research goals of the proposed school including a discussion of the extent to which the proposed school will meet the identified area and national health service and manpower needs.

(2) A description of the overall administrative and academic structure of the proposed school and, insofar as possible, the proposed curriculum.

(3) An estimate of the number of students to be enrolled in the school.

(4) A description of the available resources to conduct the proposed project including the facilities, faculty, staff, equipment, clinical setting or settings, and the patient population available to the school.

(5) A description of a financial plan for the development and operation of the proposed school including a description of all projected sources of revenue (Federal and non-Federal) and a list of proposed project expenditures for the current fiscal year and the succeeding six fiscal years.

(6) Evidence that the applicant has submitted plans for the development of its new school to the appropriate accrediting body recognized by the Commissioner of Education prior to or at the time of filing an application under this subpart.

(7) A description of the tasks necessary to be accomplished in order for the school being developed by the applicant to meet the requirements for issuance of a Letter of Reasonable Assurance by the appropriate accrediting body recognized by the Commissioner of Education.

(8) A detailed timetable for carrying out the activities of the proposed project including development of the project through graduation of the first class.

(9) A description of the plan for collecting, analyzing, and reporting data related to the health care services available to residents in the geographic regions in which the clinical training program of the school will be located.

(10) Assurances satisfactory to the Secretary together with evidence supporting such assurances that:

(i) The receipt of a grant under this subpart will enable the applicant, to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program, which must be within 24 months of the starting date of the grant award;

(ii) There is a reasonable indication of non-Federal financial resources for development and operation of such school;

(iii) The school of medicine will emphasize training programs in family medicine as provided in § 57.3005(b) of this subpart and will improve access to health care for the residents of the geographic regions in which such training programs are located, as provided in § 57.3005(c) of this subpart; and

(iv) At least 24 students will be enrolled in the first class.

(11) Evidence that the applicable requirements of section 1513(e) of the Act have been met.

§ 57.3005 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be carried out in accordance with the approved application.

(b) Each project must have a curriculum which will emphasize training programs in family medicine to include, among other things, (i) a proposed administrative unit devoted to family medicine, such as a Department or Division of Family Medicine, at the graduate and undergraduate levels, and (ii) educational experiences in family medicine as a prerequisite of graduation for every undergraduate student.

(c) Each project must evaluate the access to health care for residents of the geographic region in which the family medicine training programs of the school of medicine will be located and, where necessary, improve their access to such health care.

§ 57.3006 Evaluation and grant award.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council and the appropriate accrediting body recognized by the Commissioner of Education, may award grants to those applicants whose projects will in his judgment best promote the purposes of section 788(g) of the Act, taking into consideration among other pertinent factors:

(1) The extent to which area and national health and manpower needs can be met by the development of the proposed school.

(2) The availability and adequacy of the facilities and resources available to the applicant to carry out the proposed project.

(3) The soundness of the fiscal plan for assuring effective utilization of grant funds.

(4) The adequacy of the new school's proposed administrative and academic structure.

(5) The adequacy of the description of the tasks necessary to be accomplished by the applicant in order to receive a grant under section 788(a) of the Act.

(6) The adequacy of the applicants proposed plan for meeting the assurances required by § 57.3004(c)(10).

(7) The qualifications of the dean or executive officer charged with the responsibility of developing the proposed school.

(b) The amount of any award will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project limited to the costs of personnel, supplies and equipment, consultants, and domestic travel of staff and consultants: *Provided*, That no grant award under this subpart may exceed 50 percent of the total allowable direct costs necessary to accomplish the goals set forth in the application.

(c) All grant awards will be in writing and will set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee which may not exceed 12 months. A grantee may receive only one grant award under this subpart. A grantee under this subpart may not receive a grant award under section 788(a) of the Act with a project period beginning before the end of the project period of the grant awarded under this subpart.

§ 57.3007 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote initiation and advancement of the approved project.

§ 57.3008 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart must be expended solely for carrying out the approved project in accordance with section 788(g) of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided*, That such funds may not be expended for sectarian instruction or for any religious purpose.

§ 57.3009 Nondiscrimination.

(a) Attention is called to the requirements of section 704 of the Act and 45 CFR Part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965) as amended, and with applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.3010 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for copyright royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant must be accounted for as follows:

(1) Royalties received during the period of grant support may be retained by the grantee and, in accordance with the terms and conditions of the grant, used in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 788(g) of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise, except that any grantee that is a State or local government as defined in 45 CFR 74.3, which receives royalties in excess of $200 a year must return the Federal share of the excess amount (computed by applying the percentage of Federal participation in the cost of the grant supported project to the excess amount) to the Federal Government, unless a specific agreement provides otherwise.

(c) *Grant Closeout.*

(1) *Date of final accounting.* The grantee must render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. Such total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successor or assigns by setoff or other action as provided by law.

§ 57.3011 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 57.3012 Reports.

In addition to such other reports as the Secretary may require, each applicant awarded a grant pursuant to this subpart must submit to the Secretary within four months of the graduation of its new school of medicine's second graduating class, a report concerning the extent to which the family medicine training programs of such school has affected the access of the residents in the geographical region in which the school is located to health care services.

§ 57.3013 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 75 also apply to all other grantee organizations under this subpart:

Subpart:
A. General.
B. Cash depositories.
C. Bonding and insurance.
D. Retention and custodial requirements for records.
F. Grant-related income.
G. Matching and cost sharing.
K. Grant payment requirements.
L. Budget revision procedures.
M. Grant closeout, suspension, and termination.
O. Property.
Q. Cost principles.

§ 57.3014 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc.77-26719 Filed 9-15-77;8:45 am]

Title 45—Public Welfare

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

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Payment for Reserved Beds in Institutions

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule amends current Medicaid regulations (title XIX, Social Security Act) on State payments for reserving beds during a recipient's temporary absence from an institution. In response to inquiries from State agencies, members of Congress, provider and recipient groups, and others, the previous restrictions on Federal matching of State payments (which were based on specific time limits for such absences) have been removed. States may pay for reserved beds without any limitations or may impose appropriate restrictions; Federal sharing will be available under whatever policy the State wishes to adopt.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles L. Gardner, 202-245-8821.

SUPPLEMENTARY INFORMATION: Current regulations (45 CFR 250.30(d)) now provide Federal matching for State payments in the cost of reserving a bed in a nursing home or other long-term care facility when a Medicaid recipient is temporarily absent. This may be for a period of hospitalization for an acute condition, not to exceed 15 days per any single hospital stay, or for a leave of absence, not to exceed 18 days in total during any 12-month period. The restrictions do not apply in the case of patients in institutions for the mentally retarded or persons with related conditions. The limits relate only to Federal matching; a State may pay for more absences at State expense.

The Department has received many comments that "limits" or absences under a bed reservation program, however

liberal, are inconsiderate of the patient's welfare, particularly where chronic care patients have an opportunity for a leave of absence to visit with family or friends. Correspondents point out that the 18-day allowance covers only the legal holidays and a weekend or two. Patients who are not seriously incapacitated can be away from the institution for additional periods from time to time—for example, for additional weekend home visits during the year.

Comment has also been received stating that the policy should not be based on the type of facility, but on the individual's condition for which therapeutic home visits are considered useful. Under present policy two people with virtually identical retardation diagnoses, one in an "institution for the mentally retarded," and the other in a facility not licensed by the State as such, cannot have the same number of leave days. One individual may be allowed more than eighteen days per annum in home visits, the other is limited to eighteen days of home visits (in cases where the State will not pay for leave days unless Federal matching funds are available).

Further, there has been considerable difficulty in interpreting that section of the regulation which permits "therapeutic leave" from the "chronic care part of a general hospital," inasmuch as there is no Federal definition of what constitutes the "chronic care part of a general hospital." It has also been pointed out that in current practice, the therapeutic pass is a modality used not only in most psychiatric hospitals but in the treatment of psychiatric patients in general hospitals as well. The therapeutic leave is considered an essential part of the treatment regimen and is important for assessing the patient's capacity to function outside the hospital.

In the light of these comments and questions, the Department has determined that removal of the time limitations is appropriate. This will enable each State to formulate, without Federal constraints, the policy considered most suitable to its own needs and those of Medicaid recipients in its long-term care facilities. Thus, the States can determine whether or not to pay for reserving beds and, if they do, whether any conditions or limitations are necessary. It should be noted that the Federal regulation does retain the requirement for authorization in the patient's plan of care for absences other than those for treatment of acute illness.

The Department finds that there is good cause to dispense with notice of proposed rulemaking since the removal of the previous restrictions responds to numerous comments received since the publication of final regulations on November 7, 1975. As noted above, the questions have been raised by State agencies, recipient groups, professional organizations, members of Congress, and other interested persons. Discussions indicate that a consensus exists for permitting States to establish policies on payment for reserved beds as they deem appropriate and for Federal matching of the payments without HEW-imposed time limitations. Since no one will be disadvantaged by the removal of Federal restrictions, additional comment is unnecessary and contrary to the public interest of allowing States to establish suitable policies without further delay. The regulations are being published in final, therefore, and are effective on September 16, 1977.

Section 250.30, Part 250, Chapter II, Title 45, Code of Federal Regulations, is amended by revising paragraph (d)(2) to read as follows:

§ 250.30 **Reasonable charges.**

* * * * *

(d) *Federal financial participation.*

* * * * *

(2) *Payments during recipient's absence from institution.* Federal financial participation is available in payments made to reserve a bed during a recipient's temporary absence from an inpatient facility. For purposes of this paragraph:

(i) The State plan must provide for such payments and must indicate any limitations placed on the reserved bed policy, and

(ii) The patient's plan of care must provide for absences other than for hospitalization.

* * * * *

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

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

* * * * *

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: July 18, 1977.

R. A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 8, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-26758 Filed 9-15-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-5]

PART 1003—LIST OF FORMS

Security for Protection of the Public; Revision of Bond Form

AGENCY: Interstate Commerce Commission.

ACTION: Revision of Bond Form.

SUMMARY: This order shows the revision date of the Broker's Surety Bond to be 1977. The Broker's Surety Bond limit was increased from $5,000 to $10,000. This increase was ordered in Ex Parte No. MC-96.

EFFECTIVE DATE: This order will be effective the same date as the order in Ex Parte No. MC-96 becomes applicable.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Schloer, Chief, Section of Insurance, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7512).

NOTE.—The ICC will publish a subsequent order confirming the effective date of the revision to form B.M.C. 84 as ordered in Ex Parte No. MC-96.

This order corrects the list of forms in the code of federal regulations to show that the Broker Surety Bond, Form B.M.C. 84, has been revised in 1977. The revision in the form was necessary to increase the surety bond limit from $5,000 to $10,000. The increase was ordered in Ex Parte No. MC-96, Entry Control of Brokers. Copies of the revised form are available on request from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

We Find: The correction in the list of forms is necessary to show the increase in limits of the brokers surety bond.

It is ordered: Part 1003 of Chapter X of Title 94 of the Code of Federal Regulations be amended as follows:

Section 1003.1 is amended as follows:

§ 1003.1 **Motor Carrier and Broker Forms.**

* * * * *

(b) Insurance and Surety Bond Forms

B.M.C. 84 (Rev. 1977)

This order shall be effective on the same date as the rules enacted in Ex Parte No. MC-96, Entry Control of Brokers, become applicable. This decision is not a major Federal action significantly affecting the human environment within the meaning of the National Environment Act of 1969.

By the Commission, Insurance Board, Members Burns, Turkington and Schloer, this 8th day of September 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-26982 Filed 9-15-77;8:45 am]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1274]

PART 1033—CAR SERVICE

Consolidated Rail Corp. Required To Deliver Cars and Waybills to Short Line Connections

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1274).

SUMMARY: Service Order No. 1274 requires Consolidated Rail Corp. (ConRail) to deliver waybills with cars to its short line connections. Because of a dispute over the division of revenues between ConRail and certain of its short

line connections, ConRail is delivering loaded cars to these short lines unaccompanied by waybills. This action prevents the short lines from assessing, collecting, and distributing interline freight revenues due from consignees. The delay in receipt of revenues caused by this action seriously depletes the working funds of the short lines and jeopardizes their ability to continue operations. Service Order No. 1274 directs the involved carriers to inform the Commission on or before November 30, 1977, whether or not they have agreed upon divisions. In the event no agreement has been reached, the Commission will establish divisions as authorized by the Interstate Commerce Act.

DATES: Effective 12:01 a.m., September 14, 1977. Expires 12:59 a.m., February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840 Telex 89-2742

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 13th day of September 1977.

The reorganization of the Northeastern Railroads affected by the Regional Rail Reorganization Act of 1973 has resulted in the formation of the Consolidated Rail Corp. (ConRail) as the successor to the primary lines of the bankrupt railroads in the Northeast and to the formation of numerous smaller railroads (short lines) to operate certain lines not transferred to ConRail. The formation of these short lines has required the establishment of new joint routes and divisions between points formerly served by a single line. In some instances, ConRail and certain short lines have been unable to agree upon a basis for the division of the rates on on such traffic. Section 1(4) of the Interstate Commerce Act requires railroads to establish through routes, joint rates and an equitable basis for the division of such rates. Section 15(6) of the Interstate Commerce Act authorizes the Commission either on its own initiative or upon petition of any carrier to establish just and equitable divisions of joint rates. No such petitions have been filed with the Commission.

Certain of the short lines have complained to the Commission that ConRail is retaining the waybills on cars routed for line-haul movement over these short lines. These waybills are used by Con Rail as the basis for the issuance of freight bills by it to receivers located on the short lines thus depriving the short lines of prompt receipt of freight revenues required for operating funds. In some instances, ConRail is assessing demurrage against shippers located on the short lines notwithstanding the fact that the cars involved are in the car hire accounts of the short lines who are thus responsible to the car owners for equipment rentals.

These actions of ConRail are seriously depleting the funds required by these short lines to enable them to continue service to shippers solely dependent upon them for railroad service.

Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1274 Service Order No. 1274.

(a) *Consolidated Rail Corp. required to deliver cars and waybills to short line connections.* The Consolidated Rail Corp. (ConRail) is hereby ordered to deliver to its short line connections named in paragraph (c) of the section herein waybills authorizing the movement of cars consigned to industries served by such short lines or routed via such short lines in intermediate line-haul service (See exception (d).) Such waybills shall accompany the cars, except that memorandum waybill may be used when the revenue waybill is not available at the time the car is delivered by ConRail to the short line connection. When memorandum waybill is furnished, the revenue waybill must be furnished by ConRail to its connecting short line at the earliest practical date not exceeding thirty (30) days after delivery of the car.

(b) Revenue waybills must be on waybill forms of the origin line-haul carrier and must include:

(1) Name and address of shipper.

(2) Name and address of consignee.

(3) Full routing as supplied by shipper or origin carrier together with appropriate notations showing authority for any changes in routing.

(4) Name of commodity.

(5) Weight or valid instructions to apply destination weight.

(6) Supplemental instructions necessary for movement, delivery of shipment, protection of the shipment and safety of railroad employees and of the public.

(c) List of Short Lines.

Maryland & Deleware Railroad, Middletown & Hummelstown Railroad Corp.

(d) *Exception.* This order shall not apply to cars routed by the shipper for delivery in switching services at industries located on the railroads named in paragraph (c) of this section herein when switching is authorized by tariffs lawfully on file with the Interstate Commerce Commission.

(e) *Divisions of Revenue.* (1) ConRail and the short lines named in paragraph (c) of this section shall interchange freight and provide necessary transportation services even though no contracts, agreements or arrangements now exist between them with reference to the divisions of revenues.

(2) ConRail and the Maryland & Delaware Railroad and ConRail and the Middletown & Hummelstown Railroad Corp. are directed to seek a voluntary resolution of their divisions of revenue disputes. During the interim between service of this order and November 30, 1977, ConRail and the short lines are to engage in bona fide negotiations as to future divisions arrangements.

(3) On or before November 30, 1977, ConRail and the Maryland & Delaware Railroad, jointly, and ConRail and the Middletown & Hummelstown Railroad Corp., jointly, shall submit to the Commission verified statements summarizing the negotiations.

(4) The regulations adopted by the Commission in Ex Parte No. 322, Expeditious Handling of Division of Revenue Cases, —— I.C.C. —— decided July 29, 1976, provide for a 6-month period of prior negotiations before a notice to file a complaint or a complaint relating to divisions of revenue may be filed. This requirement can be waived "by the Commission on motion of the complainant or prospective complainant if it can be shown that other parties to a divisional dispute have failed to meet and conduct meaningful negotiations with the complainant or prospective complainant." 49 C.F.R. 1109.5(a). Notice is hereby given that, should the negotiations not produce meaningful results by November 30, 1977, the Commission will entertain a motion to waive the 6-month rule.

(5) Should the divisions of revenue dispute not be resolved by November 30, 1977, and in the event that one of the parties to the disputes does not seek to file a notice of intent to file a complaint or a complaint, the Commission, as provided in Ex Parte No. 322, supra, will institute a divisions proceeding on its own motion and "special procedures will be promulgated at that time for use in this somewhat unique situation."

(f) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(g) *Effective date.* This order shall become effective at 12:01 a.m., September 14, 1977.

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15, 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-27038 Filed 9-15-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Protection for Threatened Species of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rulemaking.

SUMMARY: The Service issues an emergency rule to further protect threatened species of wildlife. Certain regulations currently prohibit the possession of illegally taken endangered species only, as well as their commercial transportation and sale or offer for sale in foreign or interstate commerce. These protective regulations will now also apply to threatened species for a 120-day period following publication of this emergency rule in the FEDERAL REGISTER. The Service will proceed with rulemaking procedures during this period with the intention of permanently adopting the provisions of the emergency rule. (See FR Doc. 27050 in the Proposed Rules Section of this FEDERAL REGISTER for a proposed rule on the same subject.)

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, (202-343-9237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 11, 1976, the Service amended 50 CFR Part 17 to incorporate the State Cooperative Agreement Program into the Service's endangered and threatened species regulations. In particular, an amendment adding a new subsection (5) to § 17.21(c) authorized certain designated State employees in States with cooperative agreements to take endangered species without a permit for conservation purposes. This exemption did not apply in the following four situations:

(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.

If a proposed taking was to involve any one of those four situations, a regular endangered species permit would be required.

This amendment to § 17.21(c)(5) was similar to an already existing permit exemption for threatened species in § 17.31(b), which for the convenience of the reader is set forth below:

(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.

The major difference in treatment between endangered and threatened species under a cooperative agreement is that the four restrictions on the taking of an endangered species do not apply to threatened species under § 17.31(b).

The addition of § 17.21(c)(5), however, necessitated an amendment to § 17.31(a) which sets out the general prohibitions for activities involving threatened species. No prohibitions automatically cover threatened species under the Endangered Species Act of 1973, and the establishment of protective regulations is discretionary with the Service. The Service exercised this discretion in the original set of regulations implementing the 1973 Act and determined that as a general rule, all of the prohibitions applying to endangered species would apply to threatened species, unless otherwise provided for in a special rule. For the convenience of the reader, the original version of § 17.31(a) published at 40 FR 44412 is set forth below:

§ 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 shall apply to threatened wildlife.

* * * * *

Thus, as a general rule all of the prohibitions and provisions of § 17.21 for endangered species were adopted and transferred over for threatened species under § 17.31(a).

Such a transference of the provisions of § 17.21 would include the newly adopted § 17.21(c)(5) dealing with cooperative agreements and endangered species. It has already been pointed out that § 17.21(c)(5) was more restrictive in its authorization of cooperative agreement activities with endangered species, than was § 17.31(b)'s authorization of cooperative agreement activities with threatened species. To avoid this conflict, it was deemed necessary to exclude § 17.21(c)(5) from the general transference provisions of § 17.31(a). The original preamble for the May 11th final rulemaking stated the problem as follows:

The adoption of amendment number 4 requires a slight modification of § 17.31(a) dealing with the prohibitions applicable to Threatened Species. Section 17.31(a) presently states that with a few specific exceptions, all of the provisions of § 17.21, for Endangered Species, shall apply to Threatened Species. While it has been noted that a provision similar to amendment number 4 already exists in § 17.31(b) for Threatened Species, it is not identical because it does not require the State to get a permit in the four situations set forth for § 17.21(c)(5) in amendment number 4.

The present language of § 17.31(a), in stating that all of the provisions of § 17.21, including the newly adopted § 17.21(c)(5), apply to Threatened Species, creates confusion as to the circumstances under which a Threatened Species may be taken without a permit under a Cooperative Agreement. The transference of the provisions of § 17.21 to Threatened Species would include the four restrictions on taking without a permit, while the present language in § 17.31(b) does not.

The Service proposed in amendment number 5, below, to eliminate this confusion by expressly excluding the transference of the provisions of § 17.21(c)(5) in § 17.31(a). This reaffirms the intent of the present language of § 17.31(b) to provide the maximum State autonomy possible under a Cooperative Agreement for the conservation of Threatened Species.

Thus, it was the intention of the Service to amend § 17.31(a) so that all of the provisions of § 17.21 applied to threatened species except § 17.21(c)(5).

Because of an inadvertent omission, however, not only was § 17.21(c)(5) excluded from applicability to threatened species, but § 17.21 (d), (e) and (f) as well. Instead of § 17.31(a) reading "* * * all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).", the May 11th final rulemaking amended § 17.31(a) to read "* * * all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife." The excluded subsections 17.21 (d), (e) and (f) set out the prohibitions dealing with the possession of illegally taken endangered species, as well as the commercial transportation or sale or offer for sale in interstate or foreign commerce of endangered species. It is the position of the Service that these prohibitions are clearly necessary for the conservation of threatened species of fish or wildlife. Furthermore, the Service contends that the absence of these protective regulations creates a significant risk to the well being of threatened species of fish or wildlife.

The primary author of this document is Marshall L. Stinnett, Division of Law Enforcement.

NOTE.—Based upon the procedural nature of the emergency final rulemaking, the Service has determined that this document 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. Accordingly, an environmental impact statement shall not be required.

Accordingly, based on the authority of section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973, 16 U.S.C. 1533(f)(2)(B)(ii), as amended, the Director hereby issues an emergency rulemaking amending § 17.31(a) to read as follows:

§ 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 shall apply to threatened wildlife, except § 17.21(c)(5).

* * * * *

NOTE.—The Service has determined that this document does not contain a major rulemaking requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 9, 1977.

WALTER R. MCALLISTER,
Director, Fish and Wildlife Service.

[FR Doc.77-27057 Filed 9-15-77;8:45 am]

PART 32—HUNTING

Opening of Rice Lake National Wildlife Refuge, Minnesota, to Ruffed and Spruce Grouse Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Ruffed and Spruce Grouse hunting on the Rice Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: September 17, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, Minnesota 55760, telephone 218-768-2402.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of only Ruffed and Spruce Grouse on the Rice Lake National Wildlife Refuge in Aitkin County, Minnesota, is permitted from September 17 through December 31, 1977 only in the hunting area designated by (green) signs as open to hunting. The open area comprises about 2000 acres and is delineated on maps available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas 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.

LELAND A. THORNBLOOM,
Acting Refuge Manager.

SEPTEMBER 8, 1977.

[FR Doc.77-27052 Filed 9-15-77;8:45 am]

Title 29—Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

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

Emergency Temporary Standard for Occupational Exposure to 1,2 Dibromo-3-chloropropane (DBCP); Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Corrections to Emergency Temporary Standard.

SUMMARY: This notice announces corrections to the emergency temporary standard for occupational exposure to DBCP.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Ms. Flo Ryer, Directorate of Health Standards Programs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3663, Washington, D.C. 20210, (202-523-7174).

A. The preamble to the emergency temporary standard for DBCP is hereby corrected as follows:

1. Page 45536, 2nd column, 1st paragraph under "I. Background", line 5 is corrected by changing "200C" to "20C";

2. Page 45537, 1st column, 2nd full paragraph, line 6 is corrected by adding the word "months" following "4-5" and before the end parenthesis;

3. Page 45537, 2nd column, 3rd paragraph, 12th line, the sentence beginning "None of the 14" is corrected to read "Nine of the 14";

4. Page 45538, 2nd column, 1st paragraph under "C. Other Toxic Effects", line 3 is corrected by changing "associatd ewith" to "associated with";

5. Page 45538, 3rd column, line 6 is corrected by changing "atoxia" to "ataxia";

6. Page 45540, 2nd column, 3rd paragraph under "6. Paragraph (g)—Respiratory protection." line 5 is corrected by adding the word "indicator" after "life" and before the comma:

7. Page 45542, 2nd column, 1st paragraph under "16. Paragraph (q)—Appendices." line 11 is corrected by adding the words "nor as" after "ETS," and before the word "negating";

8. Page 45542, 3rd column, item 1 under "17. References" is corrected by changing the word "cytoxic" to "cytotoxic";

9. Page 45544, 1st column, lines 2 and 3 are corrected by deleting the words "it is hereby proposed to amend", and line 4 is corrected by adding the words "is hereby amended" immediately following the word "Regulations".

B. The emergency temporary standard for DBCP, § 1910.1044, is hereby corrected as follows:

1. Line 7 of paragraph (e)(1) is corrected by replacing the word "section" with "paragraph";

2. Table 1 of paragraph (g) is corrected by:

(a) deleting the word "cartridge" from the 3rd selection under the 100 ppb category;

(b) replacing the word "fasepiece" with "facepiece" in the 2nd line of the 20,000 ppb category;

3. Lines 3 and 4 of paragraph (k)(2) are corrected by deleting the phrase "and whenever exposure to DBCP,";

4. Item II A(10) of Appendix B is corrected by replacing the word "ocmpliance" with "compliance" in the 1st line and the word "Cass" with "Class" in the 4th line; and

5. Page 45549, line 5, the name "Faidysh" should be corrected to read "Faydysh".

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C. this 14th day of September, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-27209 Filed 9-15-77;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.

CIVIL SERVICE COMMISSION

[5 CFR Part 713]

EQUAL OPPORTUNITY

Prohibition Against Discrimination Because of a Physical or Mental Handicap

AGENCY: Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: There is a growing concern on the part of the public, the courts, and Congress over the lack of effective remedies for Federal employees and applicants who have suffered discrimination because of a physical or mental handicap. Currently, there is no one review system for discrimination based on handicap. On any matter appealable to the Commission, an allegation of discrimination based on physical handicap will be reviewed in an appeal and, if supported by substantial evidence, is a basis for reversal. Discrimination based on matters not appealable to the Commission is reviewable under the agency administrative grievance procedures or alternately under negotiated procedures. This is in contrast to an individual's rights under the Equal Employment Opportunity Act for discrimination based on race, color, religion, sex, and national origin, and the Age Discrimination in Employment Act. The Civil Service Commission is proposing the establishment of an administrative complaints procedure under Part 713 of the Commission's regulations.

DATE: Comments must be received on or before October 31, 1977.

ADDRESS: submit comments to: Hedwig Oswald, Chief, Office of Selective Placement Program, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., 20415.

FOR FURTHER INFORMATION CONTACT:

Lee Willis, 202-632-5687.

SUPPLEMENTARY INFORMATION: The proposed appeals system for the handicapped will follow the procedures provided for discrimination based on race, color, religion, sex, national origin, and age. Variations from these procedures are required in two areas because of limitations on the Commission's existing authority. These relate to backpay remedial relief for applicants, and court actions.

There presently exists no express statutory authority for backpay to persons who can establish that they were discriminated against because of a physical or mental handicap in Federal employment. However, there is generalized authority contained in the Back Pay Act to provide an employee with backpay relief when he or she is the subject of an unwarranted or improper personnel action. The Commission takes the position that discrimination because of a physical or mental handicap can give rise to a backpay award under the Back Pay Act (5 U.S.C. 5596) and the regulations implementing the Act (5 CFR Part 550). However, since the Act creates a backpay entitlement for employees only, the Commission has no authority under existing law to extend such relief to applicants for employment.

Sections 713.281-283 of Title 5 of the Code of Federal Regulations, relating to the filing of a civil action, is not applicable because there is no specific autory authority governing lawsuits involving discrimination because of a physical or mental handicap. Any such court actions would necessarily have to proceed under general jurisdictional statutes, without regard to the time limits set forth in section 717(c) of The Civil Rights Act.

Accordingly, 5 CFR Part 713, Subpart D is amended, and a new Subpart G is added as set forth below:

Subpart D—Equal Opportunity Without Regard to Politics or Marital Status

Sec.
713.401 Equal opportunity without regard to politics or marital status.

* * * * *

Subpart G—Prohibition Against Discrimination Because of a Physical or Mental Handicap

General Provisions

713.701 Purpose and applicability.
713.702 Definitions.
713.703 General policy.

Agency Regulations for Processing Complaints of Discrimination

713.704 General.
713.705 Coverage.
713.706 Exclusions.

Authority: Subpart G issued under 5 U.S.C. 7153; § 5.1 of the Civil Service Rules; 29 U.S.C. 791.

Subpart D—Equal Opportunity Without Regard to Politics or Marital Status

§ 713.401 Equal opportunity without regard to politics or marital status.

(a) *In appointments and position changes.* In determining the merit and fitness of a person for competitive appointments or appointment by noncompetitive action to a position in the competitive service, an appointing officer shall not discriminate on the basis of the person's political affiliations, except when required by statute, or marital status.

(b) *In adverse actions and termination of probationers.* An agency may not take an adverse action against an employee covered by Part 752 of this chapter, nor effect the termination of a probationer under Part 315 of this chapter (1) for political reasons, except when required by statute, or (2) that is based on discrimination because of marital status.

* * * * *

Subpart G—Prohibition Against Discrimination Because of a Physical or Mental Handicap

General Provisions

§ 713.701 Purpose and applicability.

(a) *Purpose.* This subpart sets forth the policy under which on agency shall establish a continuing program to assure nondiscrimination on account of physical or mental handicap and the regulations under which an agency will process complaints of discrimination based on a physical or mental handicap.

(b) *Applicability.* (1) This subpart applies to Executive agencies as defined in section 105 of title 5 of United States Code and competitive service as defined in section 2102 of title 5 of United States Code. (2) This subpart applies to the United States Postal Service and Postal Rate Commission. (3) This subpart applies only to applicants or employees who have a physical or mental handicap.

§ 713.702 Definitions.

(a) "Handicap person" is defined for this subpart as one who: (1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has record of such an impairment, or (3) is regarded as having such an impairment.

(b) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive, digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(c) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(d) "Has a record of such an impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

§ 713.703 General policy.

Agencies shall give full consideration to the hiring, placement, and advancement of qualified mentally and physically handicapped persons. An agency shall not discriminate against a qualified mentally or physically handicapped person on the basis of the handicap. An agency shall make reasonable accommodation for the known limitations of a qualified mentally or physically handicapped employee or applicant to enable that individual to perform the duties of a position efficiently and without endangering the health or safety of the individual or others.

AGENCY REGULATIONS FOR PROCESSING COMPLAINTS OF DISCRIMINATION

§ 713.704 General.

An agency shall provide regulations governing the acceptance and processing of complaints of discrimination based on a physical or mental handicap which subject to § 713.706, comply with principles and requirements in §§ 713.213 through 713.271 and §§ 713.601 through 713.614 and §§ 713.631 through 713.632.

§ 713.705 Coverage.

An agency shall provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment who believes that he or she has been discriminated against because of a handicap as defined in § 713.702.

§ 713.706 Exclusions.

The remedies provided in § 713.271 shall apply to this subpart except that no backpay may be awarded to an applicant for employment.

NOTE.—The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

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

[FR Doc.77-26867 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

1978 EXTRA LONG STAPLE COTTON PROGRAM

Proposed Determinations Regarding National Marketing Quota, National Acreage Allotment, and Other Related Operating Provisions for 1978

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1978 crop of extra long staple cotton (referred to as "ELS cotton"): (1) National marketing quota, (2) National acreage allotment, (3) Apportionment of the national acreage allotment to States and counties, (4) Date or period for conducting the national marketing quota referendum.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Adjustment Act of 1938, as amended. The effect of these determinations is to determine the national marketing quota and national acreage allotment, apportionment of the national allotment to States and counties and set the date or period for the referendum in which farmers vote on marketing quotas. This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 7, 1977.

ADDRESSES: Mail comments to Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

Comments will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS) (202-447-5953).

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1978 crop of ELS cotton are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act") (52 Stat. 31, 7 U.S.C. 1281).

(a) *National marketing quota.* Section 347(b)(1) of the Act requires the Secretary to proclaim the amount of the national marketing quota for the 1978 crop of ELS cotton by October 15, 1977. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1978-79 marketing year, which begins August 1, 1978, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1979 crop becomes readily available without resort to Commodity Credit Corporation stocks. The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the Act.

(b) *National acreage allotment.* Pursuant to section 344(a), the national acreage allotment for the 1978 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by four hundred and eighty pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1973, 1974, 1975, and 1976.

(c) *Apportionment of the national acreage allotment to States and counties.* Sections 344(b) and (e) provide that the national acreage allotment for the 1978 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton (including acreage regarded as having been planted) during the five calendar years 1972, 1973, 1974, 1975, and 1976, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.* Section 343 requires the Secretary to conduct a referendum by secret ballot of the farmers engaged in the production of ELS cotton during 1977, by December 15, 1977, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

Signed at Washington, D.C., on September 8, 1977.

DONALD L. GILLIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-26646 Filed 9-15-77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

REA SPECIFICATIONS FOR RURAL DISTRIBUTION TRANSFORMERS (2:1 RATIO, 25 kV TO 15 kV CLASS)

Proposed REA Specification D-18

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance Notice of proposed rule.

SUMMARY: REA proposes to issue REA Specification D-18, "REA Specifications for Rural Distribution Transformers (2:1 Ratio, 25 kV to 15 kV Class)." There is presently no REA Specification covering these transformers although they are presently included in REA Bulletin 43-5, "List of Materials Acceptable for Use on Systems of REA Electrification Borrowers." The proposed specification is published below. On issuance of REA Specification D-18, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than October 17, 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 REA Specification D-18 is as follows:

REA SPECIFICATION D-18

SUBJECT: REA SPECIFICATIONS FOR RURAL DISTRIBUTION TRANSFORMERS (2:1 RATIO, 25 KV TO 15 KV CLASS)

I. *Scope.* These performance specifications cover distribution transformers intended for converting system voltage or connecting portions of a system which are at two different voltages. These transformers are to be suitable for both step-down and step-up service. The transformers shall be: (1) Overhead type (pole-type), (2) single phase, (3) 60 hertz, (4) 65°C rise, (5) oil-immersed, (6) self-cooled, and they shall have: (7) cover-mounted high voltage bushings, (8) cover-mounted low voltage bushings, and (9) all standard accessories as listed in ANSI C57.-12.20, (1974). These requirements apply to both autotransformers and two-winding transformers. They shall have an approximate ratio of 2:1, and be of the 25 kV to 15 kV Class.

II. *Rating.* A. Capacity: 167-1000 kVA. B. Voltage: 14.4-7.2 kV and 14.4-7.62 kV. C. Insulation Levels: BIL's shall be:

[In kilovolts]

	Voltage class	BIL
High voltage	25	150
Low voltage	15	110

III. *Testing.* Design and routine tests are required. All designs are to be tested to show compliance with the design requirements of ANSI C57.12.00(1973). All transformers are to be tested to show compliance with the routine requirements of ANSI C57.12.00 (1973).

IV. *Special provisions.* A. Autotransformers shall be designed to withstand a through-fault current of at least 25 times the rated full load current when tested with ANSI C57.12.90A (1977).

B. Two-winding transformers shall be self-protecting when tested in accordance with ANSI C57.12.90A (1977).

C. The kVA rating shall be legibly and durably marked on the tank in numerals not less than 2½ inches high. If not readily apparent, the high and low-voltage bushings shall be so marked.

D. Transformers shall have suitable provision for automatic pressure relief. The minimum nominal flow rate is 40 scfm @ 15 psig with a maximum minus tolerance of 5 scfm. When a valve is used, it shall be located above the 140°C top oil line.

E. The radio influence voltage shall not exceed 100 microvolts (average measurement) at 1000 kHz when measured at 100 percent of rated voltage in accordance with the methods outlined in ASA Publication C63.2 (1950), with the test circuit of Appendix A, Figure 5.

Dated: September 8, 1977.

RICHARD P. RICHTER,
Assistant Administrator-Electric.

[FR Doc.77-26790 Filed 9-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211, 214]

PROJECTED CRUDE OIL AND PETROLEUM PRODUCT SHORTAGES IN THE NORTHERN TIER OF THE UNITED STATES

Advance Notice of Proposed Rulemaking, Inquiry

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of inquiry (advance notice of proposed rulemaking).

SUMMARY: FEA is considering various proposals for alleviating the crude oil and petroleum product shortages projected for the Northern Tier beginning in early 1978. FEA seeks initial comments at this time, in advance of formal proposed rulemaking procedures, concerning the most appropriate regulatory measures to assist refineries serving areas of greatest potential product shortages in obtaining short-term crude oil supply supplements.

DATES: Comments by October 3, 1977, 4:30 p.m.

Hearing: September 29, 1977, 9:30 a.m., Northern Hotel, Town Manor Room, Billings, Mont; continued if necessary at 9:30 a.m. on September 30, 1977.

Requests to speak by: September 26, 1977, 4:30 p.m.

Address to: FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226.

ADDRESS: Send comments to Executive Communications, Room 3317, Federal Energy Administration, Box PO, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202-254-5201).

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

Mario W. Cardullo, (Program Office), 2000 M Street NW., Room 6128P, Washington, D.C. 20461 (202-254-9707).

Samuel M. Bradley (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In June 1977, FEA submitted to the Congress a study entitled "Petroleum Supply Alternatives for the Northern Tier States Through 1980" which examines the crude oil and petroleum product supply and demand situation in the Northern Tier in light of the phase-out of Canadian exports of crude oil. As described below, copies of this study are available for use by persons commenting on the proposals set forth herein. On the basis of that study, FEA concluded that Montana and eastern Washington may experience petroleum product shortages of approximately 28.6 thousand barrels per day (MB/D) and 9.6 MB/D, respectively, in 1978. With respect to Montana, the product shortfall may increase to 31 MB/D in 1979 and 48.6 MB/D in 1980. FEA's analysis indicated that eastern Washington's product shortages may increase to 11.3 MB/D in 1979 and 13 MB/D in 1980. It appears that alternative crude oil and petroleum product delivery capabilities will enable the remaining Northern Tier areas (Michigan, Wisconsin, Minnesota, North Dakota, and western Washington) to meet normal petroleum product demand through 1980, although spot shortages may occur during periods of peak demand. FEA's study also indicated that certain refineries which are heavily dependent upon Canadian feedstocks may not be able to obtain sufficient supplies from alternative sources to remain economically viable. As indicated elsewhere in this notice, FEA invites comments on the accuracy of its projections of product shortfalls for Montana and eastern Washington.

For some time FEA has been engaged in extensive discussions with the Government of Canada regarding the expansion of crude oil exchanges and, in particular, exchanges of imported for Canadian crude oil via the Portland, Maine, to Montreal pipeline as a short-term supply supplement for Northern Tier refiners. In this connection, in May 1977 FEA held a public hearing and solicited public comments regarding the projected throughputs for and capacity of the mid-continent pipelines to enable the Agency to assess more accurately the extent to which mid-continent pipelines could support expanded crude oil exchanges with Canada. On the basis of the data presented in that proceeding, FEA's conclusion was that the mid-continent pipeline system is at or near capacity.

In early June 1977 FEA representatives met with Canadian officials to request Canada's approval of exchanges of foreign Canadian crude oil at Montreal. In July, the Government of Canada advised FEA that it would not approve crude oil exchanges that would reduce

the throughput in the Sarnia-Montreal portion of Canada's Interprovincial Pipeline, thus precluding the possibility of exchanges of both domestic and imported crude oil for Canadian crude oil via the Portland, Maine, to Montreal pipeline.

In light of Canada's decision on exchanges of crude oil at Montreal, FEA is evaluating and requests public comment on a number of proposals for alleviating the petroleum product shortages projected for the Northern Tier beginning this winter. The following proposals are presented for comment in this notice and are discussed in more detail below: restricting crude oil exchanges with Canada to refineries which serve the areas of greatest potential petroleum product shortages or, alternatively, requiring any refiner that receives authorization for a crude oil exchange with a Canadian refiner to "share" a portion of the Canadian crude oil with a refinery serving Montana or eastern Washington; time-exchanges between U.S. and Canadian refiners; modification of the crude oil supplier/purchaser rule set forth in 10 CFR 211.63 to permit crude oil supplies indigenous to the Northern Tier to remain in the area; and modification of the restrictions on crude oil exchanges under the Canadian Allocation Program to permit first priority refineries to exchange Canadian heavy crude oil for non-Canadian crude oil.

Northern Tier Petroleum Action Plan

In addition to requesting comments on the above proposals, FEA is also requesting comments on a petroleum action plan for Montana and eastern Washington which the Agency is currently developing to assist it in monitoring and taking appropriate action on the projected petroleum product shortages in these areas. The action plan contemplates the following:

A petroleum product supply/demand analysis by month for the period 1978–1980, taking into account variations in weather conditions and in projected petroleum product demand.

A review of the present petroleum supply distribution network, including refineries, distributors, primary and secondary storage facilities, pipelines and other potential transportation capabilities.

A data system for identifying potential shortage areas to facilitate prompt action by the Agency.

In connection with the development of this plan, FEA requests comments on the following items:

(1) The accuracy of FEA's projections of petroleum product shortages in Montana and eastern Washington.

(2) The areas or regions in Montana and eastern Washington which are expected to experience the most severe petroleum product shortages and supply dislocations.

(3) FEA actions which would alleviate the projected petroleum product shortages.

(4) Actions currently being taken or planned by refiners, suppliers and other parties in Montana and eastern Washington to meet potential petroleum product shortages.

(5) Levels of petroleum product stocks available as of September 1, 1977, at: (a) Refineries and other primary storage facilities by type of product; and (b) distribution centers and other secondary storage facilities. This data is requested of all refiners, suppliers and distributors which serve Montana and eastern Washington including areas served by the following product pipelines:

(a) Yellowstone (from Billings, Mont.).

(b) Chevron (from Salt Lake City, Utah).

(c) Husky (from Cody, Wyo.).

(d) Continental (from Billings, Mont.).

(6) Data from refiners, suppliers, and distributors which serve eastern Washington as to potential levels of shipments and impediments to barge shipments via the Columbia River.

Specific Regulatory Proposals for Comment

Background on crude oil exchanges between United States and Canadian refiners

Exchanges for crude oil above Canada's exportable surplus are covered by Section 232 of the Trade Expansion Act of 1962, which authorizes FEA to regulate imports, and the Energy Policy and Conservation Act (EPCA), pursuant to which the Department of Commerce authorizes exceptions from the mandatory prohibition on crude oil exports. Under an agreement with the Department of Commerce, FEA reviews applications for export licenses for crude oil exchanges with Canada in conjunction with its review of requests for approval of exchanges pursuant to 10 CFR 213.28(b)(1) of FEA's Oil Import Regulations. FEA then submits a recommendation to Commerce as to whether to issue an export license. FEA presently evaluates applications for exchange authorizations according to the following criteria: (1) Whether the proposed exchange meets the objective of supplying additional crude oil to Canadian-dependent refineries; (2) whether the domestic crude oil exported is being taken from a crude-deficient area where physical replacement would be difficult; and (3) whether there is any other feature of the exchange that would make it undesirable to grant an import license.

At the present time, refiners participating in the Canadian Allocation Program have authorizations for crude oil exchanges with Canada through the mid-continent pipelines for approximately 77 MB/D. Of this total, first priority refiners under the Canadian Allocation Program have exchange authorizations for 28 MB/D and second priority refiners for 49 MB/D. However, only 58.5 MB/D of crude oil are being exchanged due lack of capacity in the mid-continent pipeline system. The export licenses for these crude oil exchanges will expire on September 30, 1977. The following table shows the distribution of exchange authorizations by state:

[Thousands of barrels per day]

Michigan	Minnesota	Montana	N. Dakota	Western Washington	Wisconsin	New York
0	21	2	9	30	7	8

As is evident from the above table, Montana and eastern Washington, which are projected to have a potentially serious petroleum product shortfall this winter, are receiving a negligible amount of crude oil through exchanges with Canada, while other areas, such as western Washington, which have access to non-Canadian imported crude oil, are receiving the bulk of the exchange crude oil.

Proposal No. 1: Limiting Exchanges to Refineries Serving Areas of Projected Petroleum Product Shortages

FEA would accord priority status to certain refineries dependent upon Canadian crude oil with respect to eligibility for crude oil exchanges with Canada to ensure that such exchanges are used to the maximum extent possible to meet consumer demand for petroleum products in those areas which are expected to be the most severely affected by the decline in Canadian exports. Under the proposal, applications for exchange authorizations would be evaluated under the following criteria, in addition to the factors set forth above:

(a) Priority status of the applicant's refinery under the Canadian Allocation Program;

(b) Projected petroleum product shortages in the market served by the applicant's refinery during the period in which the exchange authorization would be in effect;

(c) Projected refinery capacity utilization during the period in which the exchange authorization would be in effect;

(d) Access of applicant's refinery to alternate crude oil supplies; and

(e) Applicant's ability to obtain pipeline space for the crude oil exchange.

FEA solicits comments on the above criteria and the feasibility of limiting crude oil exchanges to refineries serving areas of projected petroleum product shortages.

Alternate Proposal: Shared Exchanges

In light of the fact that the mid-continent pipeline system is operating at or near capacity, refineries that are granted exchange authorizations under the first proposal may not be able to

secure pipeline space to implement their approved exchanges. Accordingly, FEA requests comments on an alternative proposal whereby any priority refiner under the Canadian Allocation Program that has a crude oil exchange agreement under the current exchange program would be required to sell to or exchange with a refinery serving Montana or eastern Washington up to fifty percent of the Canadian crude oil obtained via the exchange. Under this alternative proposal, it may be necessary to amend § 213.28 (b)(1) of the Oil Import Regulations to provide that any priority refiner requesting approval of a crude oil exchange with Canada would be required to enter into a shared exchange arrangement with a refinery serving Montana or eastern Washington as a condition of approval.

PROPOSAL NO. 2: TIME EXCHANGES

The Government of Canada has indicated a willingness to consider crude oil "time exchanges" between U.S. and Canadian refiners if repayment of the exchange volumes is guaranteed. Time exchanges would permit U.S. refineries dependent upon Canadian feedstocks to receive more Canadian crude oil through exchanges than the mid-continent pipeline system can presently support since repayment of the exchange volumes could be deferred. Under the proposal, U.S. refiners would receive a specified volume of Canadian crude oil above Canada's exportable surplus from 1978 through 1980 and repayment by the U.S. refiners could begin in 1981.

FEA specifically requests comments on: (1) Whether, and under what conditions, refiners would be interested in time exchanges; (2) what would be an appropriate mechanism for guaranteeing commercial repayment of the exchange volumes; and (3) whether eligibility for time exchanges should be restricted as proposed under Proposal No. 1.

PROPOSAL NO. 3: MODIFICATION OF CRUDE OIL SUPPLIER/PURCHASER RULE

Another regulatory action which may alleviate the crude oil supply problems of the Northern Tier refineries is the redistribution by FEA of indigenous crude oil produced in Michigan, Montana, North Dakota, and Wyoming to the refineries most in need of additional crude oil in the Northern Tier States. Although the crude oil reserves and production for these states, with the exception of Michigan, are projected to decline gradually over the years, there still should be sufficient crude oil in these reserves in 1978 and 1979 to reduce the impacts resulting from the Canadian export cutbacks, assuming transportation is available to reallocate the crude oil to those refineries which have no alternative means of supply.

The crude oil supplier/purchaser rule set forth in 10 CFR 211.63 generally requires that domestic crude oil production flow to purchasers which historically purchased the crude oil. To the extend that crude oil produced in the Northern Tier must be shipped to a refiner outside the Northern Tier or to a Northern Tier refiner which has access to alternate non-Canadian crude oil sources, consumers in the Northern Tier areas most severely affected by the decline in Canadian exports may experience hardship. Thus, it is possible that a modification to this regulation may be appropriate in certain circumstances. Accordingly, FEA requests comments as to whether the crude oil supplier/purchaser rule should be modified to permit refineries serving in Montana and eastern Washington to obtain additional volumes of crude oil from the following crude oil basins: Williston, Powder River, Big Horn, and Wind River.

FEA is specifically interested in receiving comments on other actions, such as pipeline reversals, that would have to be taken in conjunction with modification of the supplier/purchaser rule to assure that the refineries in question are able to receive the crude oil from the basins listed. In addition, FEA requests comments on whether regulatory action should be taken to compensate the purchasers of the crude oil that would be redirected as a result of modification of the crude oil supplier/purchaser rule.

On July 28, 1977 (42 FR 39395, August 4, 1977), FEA issued a notice of proposed rulemaking and public hearing to modify the crude oil supplier/purchaser rule to permit a supplier/purchaser relationship between a producer and reseller to be terminated with respect to crude oil being delivered to refiners other than small refiners, if the new reseller offers to continue to supply these refiners with such crude oil. FEA is interested in receiving comments as to whether the adoption of this amendment would have the effect of providing additional crude oil to refineries serving Montana and eastern Washington.

PROPOSAL NO. 4 MODIFICATION OF MANDATORY CANADIAN CRUDE OIL ALLOCATION REGULATIONS

Under the Mandatory Canadian Crude Oil Allocation Regulations, set forth in 10 CFR Part 214, first priority refiners are precluded from exchanging Canadian crude oil except for exchanges which involve only (directly or indirectly) Canadian crude oil and in which only quality and location differentials are given effect in the calculation of the exchange ratio. Under the curtailment schedule announced by the Government of Canada, heavy crude oil exports will not be reduced as rapidly as the light Canadian crude oils. Under the current regulations, first priority refiners may nominate for the heavy crude oil but cannot trade this crude oil for domestic light crude oil which may be available. Several refiners have recommended to FEA that 10 CFR 214.31(g)(1) be modified to allow barrel-for-barrel exchanges of Canadian heavy crude oil for U.S. domestic crude oil by first priority refiners, provided that this exchanged volume of crude oil is utilized in a designated first priority refinery.

AVAILABILITY OF FEA STUDY: "PETROLEUM SUPPLY ALTERNATIVES FOR THE NORTHERN TIER STATES THROUGH 1980"

Single copies of FEA's June 1977 study entitled "Petroleum Supply Alternatives for the Northern Tier States Through 1980" are available upon request from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the study will also be available for public review in the Northen Hotel, at the above address, during the public hearing and in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

PROCEDURES FOR SUBMISSION OF WRITTEN COMMENTS AND PUBLIC HEARING

WRITTEN COMMENT PROCEDURES

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments with respect to the specific items for comments set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation, "Northern Tier Public Inquiry," Box PO. Fifteen copies should be submitted. All written comments should be submitted by 4:30 p.m. on October 3, 1977. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

PUBLIC HEARING

1. *Request procedure.* A public hearing to receive oral presentation of data, views, and arguments from interested persons will be held at the time and place indicated earlier in this notice.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, and must be received before 4:30 p.m., September 26, 1977. A request should be labeled both on the document and on the envelope "Northern Tier Public Inquiry."

The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 28, 1977.

Each person selected to be heard will be notified by FEA before 4:30 p.m., Sep-

tember 27, 1977, and must submit 15 copies of his or her statement to FEA Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80026, by September 28, 1977.

2. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to the FEA Regional Administrator at the above address before 4:30 p.m., on the day prior to the hearing. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection in the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., September 14, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-27206 Filed 9-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[PSDR-49A; Docket No. 31290; Dated: September 13, 1977]

DOMESTIC PASSENGER-FARE LEVEL POLICIES AND STRUCTURE POLICIES

Advance Notice of Proposed Rulemaking; Denial of Request for Extension of Time for Comments

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice announces the denial of a request for extending the filing dates for comments and reply comments in a rulemaking proceeding concerning modification of the Board's DPFI policies. The requested extension was filed by eight local service carriers.[1] DATES: As prescribed by PSDR-49, the filing dates continue to be:

Comments: September 21, 1977.
Reply comments: October 6, 1977.

ADDRESSES: Comments should be sent to: Docket 31290, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Norman D. Schwartz, Legal Division, Bureau of Fares and Rates, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5056).

SUPPLEMENTAL INFORMATION: By Advance Notice of Proposed Rulemaking PSDR-49, dated August 17, 1977 (42 FR 42229; August 22, 1977), the Board gave notice that it had decided to solicit public views on whether any of the Board's DPFI policies need to be modified to accommodate characteristics of the industry which appear to be changing as several new entrants seek certification to provide low price services and the existing carriers have begun to compete in their normal fares.

In a letter dated September 7, 1977, counsel for eight local service carriers requested an extension of 45 days for the filing of comments and 30 days for the filing of reply comments in response to PSDR-49. In support of the request, counsel stated that additional time is needed to consider adequately the issues raised in the Advance Notice.

Under other, more ordinary circumstances, the undersigned would be inclined to approve the requested extension. However, the Board has previously committed itself to a very tight deadline that does not permit extension of the dates for comments and reply comments to the Advance Notice. The Board in its Order on Reconsideration of the scope of the *Chicago-Midway Low-Fare Route Proceeding*, Docket 30277, Order 77-8-10, committed itself to reaching a decision within 12 months, or by August 1978, on the issues in that route proceeding. In that same order, the Board stated that rates issues relevant to the route proceeding could be dealt with in a rulemaking proceeding, instead of the route proceeding, and that the Board expected the rulemaking to move forward rapidly, and to be completed in advance of any decision in the route proceeding. That rulemaking was instituted by PSDR-49, which established the dates now sought to be extended.

The Advance Notice is a preliminary notice and will be followed by a notice of proposed rulemaking which will be the subject of comments by interested persons. All parties, therefore, will have another opportunity, in addition to that provided by the Advance Notice, for comments and reply comments, to express their views. The undersigned finds that good cause has not been shown for the granting of the requested extension.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20 (d)), the request for extending the time for filing comments and the time for filing reply comments is denied.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General Counsel,
Rules Division.

[FR Doc.77-27049 Filed 9-15-77;8:45 am]

[1] Allegheny Airlines, Inc., Frontier Airlines, Inc., Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Airlines, Southern Airways, Inc., and Texas International Airlines, Inc.

FEDERAL TRADE COMMISSION

[16 CFR Part 705]

REASONABLE DUTIES UNDER A FULL WARRANTY

Extension of Time for Submission of Written Comments Concerning Proposed Rule

AGENCY: Federal Trade Commission.

ACTION: Extension of time for submission of written comments.

SUMMARY: On August 3, 1977, the Commission published in the FEDERAL REGISTER (42 FR 39223) a Notice of Inquiry and Proposed Rule Proceeding concerning Reasonable Duties Under A Full Warranty. The closing date of the submission of written comments is extended from September 15, 1977 to September 30, 1977.

DATE: Written comments must be received on or before September 30, 1977.

ADDRESS: Send written comments to John A. Gray, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

John A. Gray, 202-724-1169, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 3, 1977, the Commission published in the FEDERAL REGISTER (42 FR 39223) a Notice of Inquiry and Proposed Rule Proceeding concerning Reasonable Duties Under A Full Warranty. The Notice, under Section C, invited all interested persons to submit written data, views, or arguments on any issues of fact, law, or policy, which may have some bearing upon the proposed rule. The closing date set for the submission of

these written comments was September 15, 1977.

The closing date for the submission of these written comments has been extended to September 30, 1977. All other information contained in the Commission's Notice remains the same.

Issued: September 14, 1977.

By the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-27208 Filed 9-15-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-004]

EXPOSURE TO LEAD

Proposed Standard; Additional Comment Period and Informal Public Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of additional comment period and scheduling of informal public hearing.

SUMMARY: This notice establishes an additional comment period for the submission of written data, views, and arguments solely on the issue of appropriate protections for workers transferred or removed from lead exposure under the proposed lead standard's medical surveillance provisions. The notice also schedules an informal public hearing to provide an opportunity to submit oral testimony on this issue.

DATES: Comments and Notices of Appearance concerning the proposed rule must be postmarked on or before October 17, 1977; all materials which will be introduced into the hearing record must be received by October 25, 1977; an informal hearing is scheduled to begin November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3641, Washington, D.C. 20210 (Tel. No. 202-523-8151).

SUPPLEMENTARY INFORMATION: On October 3, 1975, notice of a proposed standard for occupational exposure to lead was published by the Occupational Safety and Health Administration (OSHA) in the FEDERAL REGISTER (40 FR 45934), pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911. As a result of the proposed standard's invitation to interested parties to submit written comments, a considerable amount of relevant information and data was received. In addition, informal public hearings were held on the proposal in Washington, D.C., from March 15, 1977, through April 14, 1977, in St. Louis, Mo., from April 26 through April 28, 1977, and in San Francisco, Calif., from May 3 through May 6, 1977. Additional evidence and post-hearing briefs were submitted by participants in the hearings. Consequently, OSHA has collected a substantial body of information on issues it had previously identified as well as other issues involved in the proceedings.

One of the issues involved in this proceeding is whether, and to what extent, the standard should require employers to protect employees who submit to medical surveillance and as a result are removed from lead exposures in order to preserve the employees' health. This issue is inherent in the proposed standard's medical surveillance provisions and has been the subject of a considerable amount of testimony and discussion in the hearings and post-hearing submissions (see e.g. statement of OSHA representative Grover Wrenn). In order to provide the public with a clean understanding of OSHA's intended actions and supporting rationales, OSHA has decided to publish this notice discussing the problem and alternative courses of actions in detail. Written comments and the submission of evidence on this issue are invited. In addition, an informal public hearing will be held to receive testimony on this limited issue. The final lead standard will be based on the total record developed including the public comments, data and testimony received on the issue of medical transfer and removal protections.

INTRODUCTION

It is clear that the Act is intended to assure, to the extent possible, that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his or her work experience. Consistent with this goal, the Secretary has been given broad-ranging authority to promulgate comprehensive health and safety standards and other implementing regulations. With respect to health standards, the Secretary is empowered to require employers to determine the extent of employee exposures; utilize engineering controls and suitable protective equipment to control employee exposures; prescribe medical examinations and other diagnostic tests to effectively determine whether the employee has been adversely affected by his or her exposures, and inform employees about workplace hazards including the symptoms, treatment and precautions needed to protect themselves (see Sec. 6(b)(7)). This integrated approach to employee protection is the cornerstone of the Act. A successful preventative occupational health program cannot succeed unless all of these elements accomplish their intended purposes.

A successful medical surveillance program is essential because it is the only method for the early detection of occupational disease. If occupational illnesses are diagnosed only after the employee exhibits overt symptoms, diminished health or life expectancy will frequently result. In addition, timely medical surveillance provides an opportunity to treat the occupational illness before it becomes irreversible. Continued exposures also increase the probability of material impairment to the employee's health. Early medical detection provides essential information for protective action to prevent these exposures. This is particularly important for lead exposures since the subtle effects of overexposure can be detected by current medical practice through the use of diagnostic tests. Positive results on these medical tests appear long before overt symptoms appear. As a result, an effective medical surveillance program can protect employees from further impairment of their health. Moreover, past effects may be reversed.

Recently, a great deal of attention has been focused upon the effectiveness of OSHA's medical surveillance provisions because employees are reluctant to participate in medical surveillance programs such as the one contained in the proposed lead standard. There is significant evidence that employees are unwilling to participate in medical screening and examinations programs because they fear that the discovery of an abnormal medical condition resulting from their occupational exposure may lead to the loss of employment or other adverse employment effects.

In the final standard for employee exposure to coke oven emissions, OSHA indicated that it was concerned about the plight of workers who must confront the dilemma of either taking the medical examination that could ultimately result in loss of employment, or alternatively refusing to take the medical examination and thus precluding the protections of early medical detection (41 FR 46780). More evidence on this very difficult issue was presented during the lead proceeding. Several employees indicated that they would be extremely reluctant to submit to medical examinations under these circumstances. In situations where blood lead levels determine removal from a job, employees testified that they had sought the use of extremely toxic drugs from nonmedical sources in order to reduce their blood lead levels. In addition, several expert witnesses testified that a medical surveillance program could not be successful under these circumstances (see e.g. statement of Andrea M. Hricko, M.P.H.). This problem has been recognized, in part, by some employers who currently provide protection to employees who are removed from lead exposure for medical reasons.

OSHA is seeking additional public input regarding a provision in the final lead standard which would protect employee participation in the lead medical surveillance program. This provision would extend employment protection to employees who participate in the medical surveillance program and are removed or transferred from their job because of occupational lead illness. The following

discussion represents OSHA's current views on protected medical surveillance.

PROTECTING EMPLOYEE PARTICIPATIONS IN MEDICAL SURVEILLANCE

It appears that there are essentially three alternative approaches to overcoming the employee's reluctance to submit to the medical surveillance program. The alternatives are: (1) Mandatory medical examinations; (2) medical removal protection for employees who are removed from their jobs because further exposure to lead could result in material impairment of health; or (3) prohibition against removal of employees.

Mandatory medical surveillance would, in effect, require employers to discipline and ultimately discharge employees who refuse to submit to medical surveillance. Employers who fail to do so would be subject to citation and would have no choice but to discharge the employee. This approach intensifies the employee's dilemma in submitting to medical surveillance. Either the employee submits to medical examination and risks discharge for occupational lead illness; or, the employee refuses the medical examination and is automatically discharged. This is particularly difficult when the affected employee has been employed in the lead industry for a relatively long time and would find it extremely difficult to obtain a job in a different industry. As a result, the affected employees and their families would bear the primary financial responsibility for the preventive health measures mandated by the Act to control occupational disease. The result is inconsistent with the purposes of the Act. The Act assigns employers the primary responsibility to control workplace hazards and protect employees from occupational disease. This responsibility necessarily includes the costs to protect employees from occupational disease which will occur as a result of continued exposure. Moreover, a general requirement for mandatory medical examinations could inappropriately interfere with the employee's privacy.

The third alternative is to prohibit forced removal of employees from their jobs when medical surveillance indicates an excessive blood lead level. Obviously, this alternative would eliminate the employees' reluctance to participate in medical surveillance based on the fear of removal. However, this alternative would merely provide employees with information on their current medical status without any protection from working conditions which materially impair their health. Clearly, section 6(b)(7) of the Act anticipated that medical surveillance would be an effective component in a preventive health program directed at protecting employees from material impairment of their health.

The central purpose of the Act is to prevent illness and injury, not simply to identify it. Furthermore, prevention cannot be achieved when employees must choose between continued exposure to a toxic substance with protacted illness and the employees' means for supporting their families. This is intensified for the employees who are at the greatest risk because of long-term exposure to lead.

Based upon the foregoing, OSHA's present view is that the medical surveillance provision should afford significant employee protection from serious health hazards without a consequential loss for the exposed worker.

EXPOSURE LIMITATIONS, TRANSFERS AND REMOVAL

The medical surveillance provision of the proposed standard contemplates that employers will limit the exposure of employees who are at increased risk of material impairment of health. Improved engineering controls, work practices, hygiene practices, respirators, and administrative controls may be utilized to reduce employee exposures so that the employee is no longer at increased risk of material impairment of his or her health.

OSHA's primary goal is to assure that no employee suffers material impairment of health or functional capacity. The Agency does not favor transfer or removal as an alternative to controlling the level of a toxic substance in the workplace environment. Moreover, once full compliance with the permissible exposure level is achieved by engineering controls and work practices, the need to transfer or remove employees from exposure to lead should arise infrequently with only short term transfer or removal necessary.

However, it appears that some limitations on exposure such as transfer or removal from occupational exposure may, on occassion, be necessary to effectively protect employees from material impairment of health. For example, if an employee's blood lead level were only slightly elevated above acceptable levels, transfer ("removal") to a job where the lead exposures were considerably lower might be appropriate preventive action. Transfer to another job where lead exposures are considerably lower is a form of administrative control that would comply with the proposed standard under certain circumstances.

Of course, this transfer must be based upon a physician's written opinion. On the other hand, if this same employee's blood lead levels were substantially elevated above acceptable levels, removal from any occupational exposure to lead may be necessary in order to significantly reduce the blood lead level.

The present practice of many employers is to remove employees from all occupational exposure to lead when blood lead reaches a specific level. These employees are required to submit to periodic blood tests. However, their employers do not provide appropriate protection for employees who are transferred or removed. Therefore, when blood lead levels indicate that employee's exposure to lead has not been effectively controlled, employers tend to remove the employee from exposure completely because the employer incurs no substantial cost by taking this course of action. Thus, the exposed employee is penalized for participating in a medical surveillance program. (In fact, some employers have refused to certify that lead poisoning has resulted in layoffs so that their worker compensation premiums would not be affected.)

However, if the final lead standard contains a provision which protects employees who are removed, the employers' attention will be focused primarily upon preventative health action and only secondarily upon the economic implications. On the other hand, OSHA is concerned that respirators will be inappropriately issued when blood lead levels exceed acceptable levels in order to avoid the costs of transfer and removal. OSHA requests information on the conditions, if any, when respirators may be used to limit employee exposure.

MEDICAL REMOVAL PROTECTIONS

The medical surveillance provisions of the lead standard should include a requirement for medical removal protection. This requirement would maintain the rate of pay, seniority and other rights of an employee for the time period, or a portion thereof, that the employee is transferred or removed from his or her job as a result of an increased health risk from exposure to lead. After a follow-up medical examination and opinion, the following options would be available with no loss of earnings or rights: Return to the original job, assignment to a different job (transfer), or continuation of the transfer or removal.

The following is a discussion of several issues regarding the operation of medical transfer and removal protections. This discussion is not intended to be exhaustive. Rather, it presents the Agency's current position and is intended to serve as a focal point for further public comment, data and views.

A. MEDICAL BASIS FOR MANDATORY REMOVAL AND OTHER LIMITATIONS

The operation of the medical surveillance program raises several issues if the medical surveillance section of the lead standard is expanded to include transfer, removal and other limitations. Several employees testified that they had serious doubts about the objectivity or reliability of medical opinions rendered by physicians currently retained by their employers. One way to ensure greater accuracy in medical diagnosis and to improve employee confidence in the medical examinations would be a provision that would allow the employee to challenge the finding made by the first physician. This provision could allow the affected employee to select a second physician to render a medical opinion. This might occur where the first physician's opinion is that the employee is physically fit to work at the same job but the employee contiues to experience the symptoms of lead poisoning. Conversely, the employee may be healthy and want to continue work, but the first physician concludes the em-

ployee is not fit to do so. At this stage, peer review by a second physician may result in the first physician reconsidering the original opinion after comparing it with the findings of the second physician. If the second physician's opinion differs irreconcilably from the first, then a third impartial physician would be chosen by the first two physicians, and the third opinion would serve as the basis for the employer's determination concerning the particular employee's continued exposure to lead.

OSHA requests information on alternative physician selection procedures. These medical services would be at the employer's expense. This system of medical examination and review is analogous to the system required in the permanent standard on diving operations (42 FR 37650, July 22, 1977).

If exposure limitations including transfer and removal are based exclusively on blood lead levels in excess of an established level, then the necessity of the second and third medical examinations becomes an issue. Since an excessive blood lead level is an objective criterion, it may be unnecessary to authorize a second and perhaps third medical examination. However, the issue remains as to whether multiple opinions are necessary on the appropriateness of a limitation recommended by the first physician.

b. CRITERIA FOR LIMITATIONS ON EXPOSURE

Blood lead levels may be utilized either as the exclusive biological indicator for a medical opinion or they could be supplemented by additional biological indicators. The exclusive use of blood lead levels simplifies the medical surveillance process and focuses the physician's attention on appropriate preventive limitations. By supplementing blood lead levels with other biological indicators, the employer may place limitations on employee exposure based on medical opinion even though the blood lead levels are within the acceptable level. Data and views on these alternatives are sought by the Agency.

c. TERMS OF THE PROVISION ON MEDICAL REMOVAL PROTECTION

At the hearings on the proposal, employee and employer groups noted that certain employers currently protect the rate of pay and related rights of employees for a period of time after removal. Ninety days was mentioned as one time period for earnings protection ("rate retention"). However, there was also testimony that in some cases employees were not capable of returning to their original positions within that time. Thus, an issue is raised as to the appropriate duration of removal protection. The period of time should reflect the following considerations: The time necessary for employee health and/or biological indicators to normalize, the nature and extent of physiological damage from lead poisoning, and the number of removed employees who would be covered by this provision. Earnings and seniority protection could last until the individual employee is able to safely return to work. However, if the employee is unable to return to the job due to occupational exposure to lead, then a certain maximum time period could be established.

The record indicates that in some existing programs the period of earnings and seniority protection is not co-extensive with the actual transfer or removal period. For example, an employee removed from exposure for four months may receive earnings and seniority protection for only three months. OSHA requests information and views on the duration of transfer and removal protection.

Testimony at the hearings revealed employees occupationally poisoned by lead receive Workers Compensation payments in some States, such as Missouri. These payments do not equal the salaries of the affected workers nor are they necessarily co-extensive with the time period that the employee has been removed from work. Moreover, there is typically a substantial delay before an employee receives the first payment under Workers Compensation. Therefore, the Agency must consider the relation between awards to the removed employee under Workers' Compensation and payments under the medical surveillance provision.

Comments submitted for the record by employers suggested that medical removal protection should be limited to the transfer of employees to other available positions. This suggestion does not speak to the need to remove employees completely from exposure, e.g. their home or hospital. Moreover, employee protection becomes entirely dependent on the number of available jobs. If an employee should be removed for medical purposes, then job removal protection must be equally available to all removed employees.

Another issue involves the conditions which terminate medical transfer and removal protection. One alternative is to remove an employee for a definite period of time based on the medical recommendations. Medical examinations would be scheduled at various intervals within this time frame, and the removed employee would be returned to work when the employee's condition returned to normal. A related issue is the medical criteria for returning a removed employee to his or her original job. These criteria should insure so far as possible that the returned employee is not removed immediately after reassignment as a result of resumed lead exposure. This may require a reassignment criterion for the employee's blood lead level which is somewhat lower than the removal criterion. The provision might also condition the employee's return to exposure on assignment to a job with reduced lead exposures. Since the employer's decision to return an employee must be based on a medical opinion, a medical review procedure may be necessary to resolve disagreements on medical recommendations to return to the original job or the appropriateness of recommended limitations.

OSHA has already collected a substantial body of information on occupational exposure to lead. Therefore, the written responses to this notice and testimony at the public hearing shall be limited to those issues directly related to medical removal protection. Issues such as the blood lead level or levels which would trigger limitations on exposure have already been subjected to extensive public comment and testimony and are not appropriate for this comment period and hearing.

Comments and information are sought on any issues raised by the above discussion, the issues raised below and any other directly related issues:

1. Whether a provision for removal protection is necessary or appropriate.
2. What should be the appropriate scope of this provision?
3. What earning protection programs are presently in use, and how do they operate?
4. What impact would this provision have on small businesses?
5. What impact would this provision have on collective bargaining?
6. Should employees be permitted to remain on their job despite the risk of material impairment of their health?
7. To what extent, if any, should respirators be permitted to reduce exposures of employees who are at increased risk of material impairment of their health?
8. Should a time limitation be placed on the duration of medical removal protections for a particular employee? If so, what should that time limit be?
9. Should the initial medical opinion be subjected to multiple medical opinions?
10. Should employee participation in the medical surveillance program be mandatory?
11. Should elevated blood lead levels be the exclusive medical criterion for recommending removal from the job, limitations on exposure, or return to the original job? If not, what supplementary medical criteria should be used?
12. To what extent do Workers Compensation laws cover occupational diseases related to lead exposure?
13. The economic impact of such a provision, including (a) Number of employees affected if this provision becomes operative at 20 μg Pb/100g of whole blood, 30 μg Pb, 40 μg Pb, 60 μg Pb, or 80 μg Pb; (b) Cost per employee of this provision for each triggering blood lead levels; (c) Cost impact on consumers, businesses, markets, or Federal, State, or local government; (d) Effect on productivity of wage earners, businesses (both small and large) or government; (e) Effect on competition; (f) Ability of specific industries to absorb costs of compliance; and (g) Cost impact on the employee, the employee's family, compensation and disability programs, the health care delivery system, governmental and societal institutions and other related cost savings.

PUBLIC PARTICIPATION

NOTICE OF HEARING

Interested persons are invited to submit written data, views and arguments with respect to medical removal protection. These comments must be postmarked on or before October 17, 1977, and submitted in quadruplicate to the Docket Officer, Docket H-004, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Written submissions must clearly identify the position taken with respect to the 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 made a part of the record for this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by this notice, including the economic impact, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on November 1, 1977, in the 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 October 17, 1977, with Clarence Page, the OSHA Division of Consumer Affairs, Docket No. H-004, 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 202-523-7894, 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 presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to Clarence Page, the OSHA Division of Consumer Affairs. This material must be received by October 25, 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.

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 November 1, 1977, with resolution of any procedural maters relating to the proceeding. The hearing will be conducted in and expedited manner consistent with the full development of the record and rights of the parties.

The hearings will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing in accordance with 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, the 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 the lead proceeding.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-85 (41 FR 25059).)

Signed at Washington, D.C., this 13th day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-27041 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Parts 700, 710, 715, 716, 717, 720, 721, 722, 723, 725, 740, 795, 830]

SURFACE MINING RECLAMATION AND ENFORCEMENT PROVISIONS

Proposed Rules; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects proposed rules that appeared on page 44920 of the FEDERAL REGISTER on September 7, 1977, FR Doc. 77-25928.

DATES: Comments must be received by October 7, 1977. Public hearings will be held starting at 1 p.m. on September 20, 1977, and continuing if necessary at 9 a.m. on September 21 and 22, 1977.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202-343-4237.

DRAFTING INFORMATION: The principal authors of these corrections are: Michael Bradley, Office of Surface Mining Task Force, and Edward Clair, Office of the Solicitor, Department of the Interior.

Dated: September 13, 1977.

CARL C. CLOSE,
Acting Director, Office of Surface Mining Task Force.

The following corrections are made:

1. On page 44920, under SUMMARY, line 6 "These regulations require" is corrected to read "The Act requires".

2. On page 44920, under SUPPLEMENTARY INFORMATION, line 10, "These regulations, especially dealing with" is corrected to read "The regulations, especially those dealing with".

3. On page 44922, the first full paragraph, line 8, "that its was necessary" is corrected to read, "that it was necesary".

4. On page 44922 § 715.20, line 13, strike the comma after "wildlife" and before "habitat".

5. On page 44922, § 716.3, line 9, "long-term" is corrected to read "long term".

6. On page 44923, DRAFTING INFORMATION, line 3, after "George Davis" insert ", Office of Surface Mining Task Force,".

7. On page 44924, "DRAFTING REGULATION", is corrected to read "DRAFTING INFORMATION".

8. On page 44926, *Surface coal mining and reclamation*, is corrected in the second line by adding "*operations* means surface coal mining" immediately following "*reclamation*" and immediately before "operations".

9. On page 44926, § 700.13(d)(4), "The dates" is corrected to read "The date".

10. On page 44926, § 700.13(e), "Secretary of" is corrected to read "Secretary or".

11. On page 44927, § 710.5, *approximate original contour*, last line, "§ 715.7" is corrected to read "§ 715.17".

12. On page 44927, § 710.5, *Highwall*, first line, "face of an exposed" is corrected to read "face of exposed".

13. On page 44927, § 710.5, "*Roads means*" is corrected to read "*Roads* means".

14. On page 44928, "*Runnoff water*" is corrected to read "*Runoff water*".

15. On page 44928, "*Water table* means upper surface" is corrected to read "*Water table* means the upper surface".

16. On page 44929, § 710.12(c)(1), "not to exceed 1,000,000 tons" is corrected to read "not to exceed 100,000 tons".

17. On page 44929, PART 715, under Section heading 715.18 "Dams constructed of refuse material, general" is corrected to read "Dams constructed of refuse materials."

18. On page 44929, § 715.11(c), line 6, "to exced 1:1000," is corrected to read "to exceed 1:1000,".

19. On page 44931, § 715.14, line 12, "highway may be disturbed" is corrected to read "highwall may be disturbed".

20. On page 44931, § 715.14(c)(3), line 2, "as stated as paragraph" is corrected to read "as stated in paragraph".

21. On page 44931, § 715.14(e), line 11, "struction of power grades" is corrected to read "struction of lower grades".

22. On page 44932, § 715.14(j)(2), line 5, "cordance with § 2020.17(g)" is corrected to read "cordance with § 715.17 (g)".

23. On page 44933, § 715.17, line 18, "include but are limited to" is corrected to read "include but are not limited to".

24. On page 44933 § 715.17(a) *"Effluent limitations, in milligrams per liter except for hydrogen-ion concentration"* is corrected to read *"Effluent limitations, in milligrams per liter except for pH"*.

25. On page 44933, § 715.17(a), line 4 in chart, *"Hydrogen-ion concentration."*, is corrected to read "pH."

26. On page 44934, line 7, "charges that occur more than" is corrected to read "charges that occur for more than".

27. On page 44934, (e)(1)(ii), line 1, "storage for each of" is corrected to read "storage for each acre of".

28. On page 44935, line 3, "(f) *Discharged structures.*" is corrected to read "(f) *Discharge structures.*"

29. On page 44935, (4)(f), "(f) *Alluvial valley*" is corrected to read "(j) *Alluvial valley*".

30. On page 44935, (k), line 12, "reflect hanges in" is corrected to read "reflect changes in".

31. On page 44935, (c)(iii), line 4, "water carriers" is corrected to read "water barriers".

31a. On page 44936, § 715.18, "Dams constructed of refuse materials, general." is corrected to read, "Dams constructed of refuse materials."

32. On page 44936, § 715.18(c)(3)(v), line 8, "blankets, previous drainage" is corrected to read "blankets, pervious drainage".

33. On page 44936, § 715.18(c)(ix), line 9, "professional policies by a" is corrected to read "professional practice by a".

34. On page 44937, § 715.19(b)(2), line 9, "to be effected by" is corrected to read "to be affected by".

35. On page 44937, § 715.19(7)(a), "(a) *Blasting procedures*" is corrected to read "(e) *Blasting procedures*".

36. On page 44939, the first chart, *"Standards for revegetation"* is corrected to read as follows:

Standards for revegetation

[Herbaceous species = grass, legumes, and nonleguminous forbs; woody plants = woody shrubs, trees, and vines; ground cover = area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement]

A. Areas planted only in herbaceous species (percent ground cover of herbaceous species at the end of the growing season)

Average annual precipitation, in inches	1 year	5 years	10 years
Up to 10	6	8	10
10.1-16	10	20	30
16.1-26	20	30	40
More than 26	50	70	NA

B. Areas planted to mixtures of herbaceous and woody species (percent ground cover of herbaceous species and number of plants per acre of woody species at the end of the growing season)

Average annual precipitation, in inches	1 year		5 years		10 years	
	Percent ground cover	No. of woody plants per acre	Percent ground cover	No. of woody plants per acre	Percent ground cover	No. of woody plants per acre
Up to 10	6	2,500	5	2,000	4	1,500
10.1-16	7	800	10	900	15	1,000
16.1-26	20	400	25	400	30	400
More than 26	40	600	50	1/ 400	NA	NA

1/ On steep slopes, the minimum number of woody plants must be increased to 600 per acre.

37. On page 44939, the second chart, *"Standards for revegetation when exclosures are required"* is corrected to read as follows:

Standards for revegetation when exclosures are required

[Ground cover = area covered by the combined aerial parts of plants and litter that are produced naturally on site, expressed as a percentage of the total area of measurement; biomass yield = the total yield of living plants above ground in an area at the end of the growing season]

Average annual precipitation, in inches	End of growing season-- 1 year	5 years	10 years
A. Number of adapted species in revegetated areas			
Up to 10 . . .	3	12	15
10.1-16 . . .	6	14	20
16.1-26 . . .	6	20	25
More than 26 . . .	8	25	30
B. Ground cover of perennial plants expressed as a percent of the ground cover in the exclosures			
Up to 10 . . .	90	80	85
10.1-16 . . .	70	80	85
16.1-26 . . .	70	80	90
More than 26 . . .	80	90	NA
C. Biomass yield of perennial plants expressed as a percent of the biomass yield			
Up to 10 . . .	90	80	80
10.1-16 . . .	70	80	85
16.1-26 . . .	70	80	90
More than 26 . . .	80	90	NA

38. On page 44940, PART 716, "SPECIAL PERFORMANCE STANDARD" is corrected to read "SPECIAL PERFORMANCE STANDARDS".

39. On page 44940, § 716.2(a)(1), line 6, "in excess if that" is corrected to read "in excess of that".

40. On page 44940, § 716.3(a), line 3, "seams running through" is corrected to read "seams running through".

41. On page 44941, § 716.4(c), line 9, "for these operations" is corrected to read "for those operations".

42. On page 44941, § 716.4(c)(1), line 6, "of thee slope in the" is corrected to read "of the slopes in the".

43. On page 44941, § 716.5(c), line 2, "for anthraciate coal" is corrected to read "for anthracite coal".

44. On page 44942, (1)(ii), line 5, "quality (A dependable water" is corrected to read "quality (a dependable water".

45. On page 44944, § 720.14(a), line 6, "other office designed by" is corrected to read "other office designated by".

46. On page 44944, PART 722, under heading 722.17, "Pattern of violation." is corrected to read "Pattern of violations."

47. On page 44945, § 722.11(e), line 4, "written order when the" is corrected to read "written notice when the".

48. On page 44945, § 722.15(e), line 7, "reprot which led to" is corrected to read "report which lead to".

49. On page 44945, § 722.16(c), line 4, "under part 2033 of this" is corrected to read "under Part 723 of this".

50. On page 44945, § 722.17(b)(1), line 4, "single section Parts 715" is corrected to read "single section of Parts 715".

51. On page 44945, § 722.17(b)(2), line 4, "of part 715, 716" is corrected to read "of Parts 715, 716".

52. On page 44945, § 722.17(c)(3), line 14, "for the proceeding half year" is corrected to read "for the preceding half year".

53. On page 44946, "§ 723.12. When to assess after a notice of" is corrected to read "§ 723.11 When assessment made."

54. On page 44947, § 723.13, line 6, "25 and below-500" is corrected to read "25 and below-$500".

55. On page 44947, § 723.14(a), line 9, "$750.00, whichever isg reater" is corrected to read "$750.00, whichever is greater".

56. On page 44947, § 723.14(b), line 4, after "listed in" strike the next three lines and insert "§ 723.12 of this part and any economic benefit to the permittee or operator which resulted from a failure to comply".

57. On page 44948, line 1, "identified under part 2030" is corrected to read "identified under Part 720".

58. On page 44948, § 725.16(d), line 3, "prior to the executive of" is corrected to read "prior to the execution of".

59. On page 44949, § 725.18(b), line 3, "at least ten days' written" is corrected to read "at least ten days written".

60. On page 44949, § 725.19, line 4, "ment. Circular 74-7" is corrected to read "ment Circular 74-7."

61. On page 44951, § 740.16(e)(2), line 4, "cooperative agreements grants" is corrected to read "cooperative agreement grants".

62. On page 44952, § 740.21(a)(4)(i), line 7, "the benefits or, or be" is corrected to read "the benefits of, or be".

63. On page 44953, § 795.12(a)(1), line 5, "accordance with § 295.16." is corrected to read "accordance with § 795.16."

64. On page 44954, § 795.15(b), line 3, "is denied and of the reasons" is corrected to read "is denied and the reasons".

65. On page 44954, § 795.17(b)(1)(iv), line 1, "Meets the Occupational" is corrected to read "Meets the requirements of the Occupational".

66. On page 44954, § 795.17(b)(2), line 3, "statement under paragraph" is corrected to read "statement under".

67. On page 44955, § 830.13(d), line 3, "a report of investigation" is corrected to read "a report of the investigation".

[FR Doc.77-27062 Filed 9-15-77;8:45 am]

[30 CFR Part 837]

ABANDONED MINE RECLAMATION FUND FEE COLLECTION AND PRODUCTION RECORDS

Proposed Rules; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects proposed rules that appeared on page 44955 of the FEDERAL REGISTER on September 7, 1977, FR Doc. 77-25929.

DATES: Comments must be received by October 7, 1977. Public hearings will be held at 9 a.m. on September 20, 1977.

ADDRESSES: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240. Public hearings will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C.; Kiel Auditorium, 1416 Market Street, St. Louis, Mo.; Public Library Auditorium, 1347 Broadway, Denver, Colo.; and Morris Harvey College, Riggleman Hall, 2300 McCorkle Avenue, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Paul Reeves, Office of Surface Mining Reclamation and Enforcement, 202-343-4237.

DRAFTING INFORMATION: The principal authors of these corrections are: Michael Bradley, Office of Surface Mining Task Force, and Edward Clair, Office

of the Solicitor, Department of the Interior.

Dated: September 13, 1977.

CARL C. CLOSE,
Acting Director, Office of Surface Mining Task Force.

The following corrections are made:

1. On page 44955, under SUMMARY, line 7, "of" is corrected to "to" so that the phrase reads, "statement to the proper location."

2. On page 44956, the spelling of the name of the Acting Secretary of the Interior is corrected to read, "Leo M. Krulitz,".

3. On page 44957 in §§ 837.12 and 837.15, "OSM Form 4100–1" is corrected to read, "OSM Form 837–1" in each of the three places it appears.

On page 44957 in § 837.13(b)(2) delete the line "tiply the number of tons produced in a," and insert that line after the second line in § 837.13(c)(1).

5. On page 44957 in § 837.13(c)(1) the last word, "feet" is corrected to read "fee".

[FR Doc.77-27063 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 212, 295]

ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Use of Vehicles Off the Road

AGENCY: Department of Agriculture, Forest Service.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend regulations on the administration of the Forest Development Transportation System and use of vehicles off the road. This action is necessary because of an earlier amendment which consolidated all regulations on prohibited acts in 36 CFR Part 261.

This document would (1) amend Parts 212 and 295 to clarify the relationship between 212, 295, and 261; (2) amend Parts 212 and 295 so they concern administrative regulations only; (3) consolidate all administrative regulations relating to Forest development trails into § 212.20; and (4) amend Part 295 to emphasize that these regulations concern vehicles that travel off the National Forest Transportation System.

DATES: Comments must be received on or before Otcober 17, 1977.

ADDRESSES: Send comments to: USDA Forest Service, Recreation Staff, P.O. Box 2417, Washington, D.C. 20013.

Copies of comments will be available for public inspection (8:15 a.m. to 4:45 p.m.) Monday through Friday, at the following locations:

USDA Forest Service, Engineering Staff, Rm. 1108, Rosslyn Plaza E, 1621 N. Kent Street, Arlington, Virginia 22209

or

USDA Forest Service, Recreation Staff, Rm. 4243 South Building, 14th & Independence Ave., Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT:

Willard Clementson, 703–235–8074.

or

William Holman, 202–447–4228.

SUPPLEMENTARY INFORMATION: Last October 15, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 45577). This proposal combined regulations on prohibited acts, and placed them in one part of the Code of Federal Regulations (36 CFR Part 261). The new regulations were published in the FEDERAL REGISTER January 14, 1977 (42 CFR 2956), effective February 15, 1977.

It is necessary to eliminate redundancy and rewrite portions of 36 CFR Parts 212 and 295 to complement the revised general prohibitions. In addition, it was determined that these proposed regulations are necessary to further interpret the National Forest Roads and Trails System Act, National Trails Systems Act and Executive Order 11644 (Use of Off-Road Vehicles on Public Lands).

An environmental assessment of the proposed rule change has been made. It has been determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A–107, or an environmental statement under section 102(2)(c) of the National Environmental Policy Act.

Accordingly, it is proposed to amend 36 CFR Chapter II as follows:

PART 212—ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

1. Section 212.7 is revised to read as follows:

§ 212.7 Road system management.

(a) *Traffic rules.* Rules set forth under 36 CFR 261 shall apply to all roads under the jurisdiction of the Forest Service except when in conflict with written agreement.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules established under 36 CFR 261.

(2) *Specific.* The following specific traffic rules shall apply unless different rules are established in 36 CFR 261.

(i) The load, weight, length, height, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be imposed and these greater or lesser limits may be established as provided in 36 CFR 261.

(ii) Roads, or segments thereof, may be restricted to use by certain classes of vehicles or types of traffic as provided in 36 CFR 261. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, automobiles, and trailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation, and administrative.

(iii) Roads, or segments thereof, may be closed to all vehicle use as provided in 36 CFR 261.

(iv) Additional rules may be imposed as provided in 36 CFR 261.

§ 212.7 [Amended]

2. Section 212.7 (b) is revoked and reserved.

3. Section 212.20 is revised to read as follows:

§ 212.20 National Forest development trail system operation.

(a) *Forest development trails.* Forest development trails shall be designated on a map or plan available to the public at the offices of the Forest Supervisors and District Rangers and shall be marked on the ground by appropriate signs which reasonably bring their location to the attention of the public.

(Sec. 1, 30 Stat. 35, as amended, Sec. 205, 72 Stat. 907: 16 U.S.C. 551, 23 U.S.C. 205.)

4. Section 212.21 is revised to read as follows:

§ 212.21 Pacific Crest National Scenic Trail.

The Pacific Crest National Scenic Trail as defined by the National Trails Systems Act, 82 Stat. 919, shall be administered primarily as a footpath and horseback riding trail by the Forest Service in consultation with the Secretary of the Interior. The use of motorized vehicles may be authorized by the Federal Agency administering the segment of trail involved when use of such vehicles is necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights.

(Sec. 1, 30 Stat. 35, as amended: 16 U.S.C. 551, Sec. 205, 72 Stat. 907, 23 U.S.C. 205 and 82 Stat. 919, 16 U.S.C. 1241 et seq.)

PART 295—USE OF VEHICLES OFF THE ROAD

1. Part 295 is retitled as shown above and revised to read as follows:

Sec.

295.1 Applicability
295.2 Planning and designation of areas
295.3 Public participation
295.4 Public information
295.5 Monitoring effects of vehicle use off of roads.

AUTHORITY: 30 Stat. 35, as amended (16 U.S.C. 551); 50 Stat. 525, as amended (7 U.S.C. 1011); E.O. 11644, 11989 (42 FR 26959).

§ 295.1 Applicability.

The regulations in this part pertain to administrative designation of specific areas of National Forest System lands on which the use of vehicles traveling off of National Forest development roads is allowed, restricted or prohibited. Prohibitions regarding use of vehicles off roads are established in or pursuant to 36 CFR Part 261.

§ 295.2 Planning and designation of areas.

On National Forest System lands, the continuing land management planning process will be used to permit, restrict,

or close specific areas and trails to vehicular use off roads. This process will include coordination with appropriate Federal, State, and local agencies. The planning process will analyze and evaluate such vehicular use so as to enable decisions which will protect the resources of these lands, promote safety of all users, and minimize conflicts among the users of these lands. The process will consider potential impacts of such vehicular use on soil, watershed, vegetation, fish and wildlife, and cultural, and historic resources. If the analysis indicates that the use of vehicles off of roads will cause considerable adverse effects on these resources, areas or trails will not be opened to those vehicles likely to cause such adverse effects. However, this does not preclude the use of any fire, military, emergency, or law enforcement vehicle for emergency purposes, or the use of any combat or combat support vehicle for national defense purposes.

§ 295.3 Public participation.

The public shall be provided an opportunity to participate in the process of designating areas or trails for vehicular use off of roads. Advance notice will be given to allow for public review of proposed or revised designations or for proposed closures to such use. In emergency situations, designations or closures may be made or revised without public participation if needed to protect the resources and/or to provide for public safety.

§ 295.4 Public information.

In addition to the requirements of 36 CFR 261, information will be published and distributed describing the regulation of vehicular use and time periods when an area or trail is: (a) Open to such use, (b) restricted to certain types of such use, or (c) closed to such use.

§ 295.5 Monitoring effects of vehicular use off of roads.

The effects of use by vehicles off of roads on National Forest System lands will be monitored. If the results of monitoring indicate considerable adverse effects on the factors and resource values referred to in Part 295.2, the area or trail suffering adverse effects will be immediately closed to vehicle use until the adverse effects have been eliminated and measures have been implemented to prevent future recurrence. Designations, use restrictions, and operating conditions will be revised as needed to meet changing conditions.

SEPTEMBER 12, 1977.

M. RUPERT CUTLER,
Assistant Secretary.

[FR Doc.77-26947 Filed 9-15-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 792-1]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Revisions to the Southeast Desert and the Metropolitan Los Angeles Intrastate Air Quality Control Regions (AQCR), to the Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of, and invite public comment on: The rules and regulations of, and their revisions for, those portions of the counties of Los Angeles, Riverside, and San Bernardino that lie within the Southeast Desert Air Quality Control Region; the South Coast Air Quality Management District (AQMD); and also those portions of Orange, Los Angeles, San Bernardino, and Riverside County Air Pollution Control Districts (APCD) that lie within the Metropolitan Los Angeles Air Quality Control Region. These were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan on February 21, 1972, June 30, 1972, July 25, 1973, July 22, 1975 and June 6, 1977. Regulations concerning New Source Review, New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, and Emergency Air Episodes are not being considered in this notice and will be the topic of separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESS: Send comments to: Regional Administrator, Attention Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111, Attention David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: The 1973-1977 submittals contain revisions to the rules listed below. Unless otherwise noted, the rules apply within the Southeast Desert AQCR portion of the Los Angeles, Riverside, and San Bernardino County APCD. In addition, two rules previously approved by EPA in 1972 are being reannounced for consideration.

REGULATION I—GENERAL PROVISIONS

Rule
101—Title
102—Definition of Terms
2—Definition of Atmosphere
103—Definition of Geographical Areas
104—Reporting of Source Test Data and Analysis
105—Authority to Arrest
106—Increments of Progress

REGULATION II—PERMITS

Those parts of Regulation II not part of New Source Review are:

Rule
208—Permit for Open Burning
218—Stack Monitoring

REGULATION III—FEES

Rule
301—Permit Fees
42—Hearing Board Fees
43—Analysis Fees (Los Angeles and San Bernardino Counties)
44—Technical Report—Charges for (Los Angeles and San Bernardino Counties)
44—Charges for Technical Reports (Riverside County)

REGULATION IV—PROHIBITIONS

Rule
401—Visible Emissions
402—Nuisance
403—Fugitive Dust
404—Particulate Matter—Concentration
405—Solid Particulate Matter—Weight
53—Sulfur Compounds—Concentration (Los Angeles County)
53—Specific Air contaminants (Riverside County)
53—Specific Contaminants (San Bernardino County)
56—Scavenger Plants (Riverside County)
53.1—Scavenger Plants (San Bernardino County)
407—Liquid and Gaseous Air Contaminants
408—Circumvention
409—Combustion Contaminants
430—Breakdown Provisions
431—Sulfur Content of Fuels
432—Gasoline Specifications
441—Research Operations
442—Usage of Solvents
443—Labeling of Solvents
444—Open Fires
461—Gasoline Transfer and Dispensing
462—Organic Liquid Loading
463—Storage of Organic Liquids
464—Oil-Effluent Water Separator
465—Vacuum Producing Devices
466—Pumps and Compressors
467—Safety Pressure Relief Valves
468—Sulfur Recovery Units
469—Sulfuric Acid Units
470—Asphalt Air Blowing
471—Asphalt or Coal Tar Equipment
472—Reduction of Animal Matter
473—Disposal of Liquid and Solid Wastes

474—Fuel Burning quipment—Oxides of Nitrogen
475—Electric Power Generating Equipment
476—Steam Generating Equipment
73—Dry Sandblasting (San Bernardino County)
73—Lead Content and Volatility of Gasoline (Riverside County)

REGULATION V—PROCEDURE BEFORE THE HEARING BOARD

Rule
501—General
502—Filing Petitions
503—Contents of Petitions
504—Petitions for Variances
505—Appeal from Denial
506—Failure to Comply with Rules
507—Pleadings
508—Dismissal of Petition
509—Place of Hearing
510—Notice of Hearing
511—Evidence
512—Preliminary Matters
513—Official Notice
514—Continuances
515—Decision
516—Effective Date of Decision
517—Lack of Permit
518—Findings

Regulation VI has been rescinded and replaced by California Health and Safety Codes, Chapter 957, Division 26, Sections 43210 and 41860.

Regulation VII, Emergencies, has been submitted by the Southern California APCD, but is not being considered in this notice and will be the topic of a separate FEDERAL REGISTER notice.

REGULATION VIII—ORDERS FOR ABATEMENT

Rule
801—General
802—Orders for Abatement
803—Filing Petitions
804—Contents of Petition
805—Scope of Order
806—Findings
807—Pleadings
808—Evidence
809—Failure to Comply with Rules
810—Dismissal of Petition
811—Place of Hearing
812—Notice of Hearing
813—Preliminary Matters
814—Official Notice
815—Continuance
816—Order and Decision
817—Effective Date of Decision

Metropolitan Los Angeles AQCR: Rules submitted by South Coast AQMD (successor to the Southern California APCD).

Rule
301—Permit Fees
431—Sulfur Content of Fuels
461—Gasoline Transfer and Dispensing

Metropolitan Los Angeles AQCR: Rules submitted by Los Angeles, Orange, San Bernardino, and Riverside County APCD as indicated.

Rule
45—Permit Fees—Open Burning (Los Angeles County—1973)
53—Sulfur Compounds—Concentration (Orange County—1975)
53.1—Scavenger Plants (San Bernardino County—1972)
56—Scavenger Plants (Riverside County—1972)

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 17, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

South Coast Air Quality Management District, District Headquarters, 9420 Telstar Avenue, El Monte, Calif. 91731.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

AUTHORITY: Section 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5 and 1857g(a)).

Dated: September 2, 1977.

R. L. O'CONNELL,
Acting Regional Administrator.

[FR Doc.77-26969 Filed 9-15-77;8:45 am]

[FRL 792-2]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Sierra County Air Pollution Control District in the States of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Sierra County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Sierra County Air Pollution Control Board, County Courthouse, Downieville, Calif. 95936.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977, proposed revisions to the following rules:

Rule 102(B)—Definitions (Agricultural Burning).
Rule 102(E)—Definitions (Air Contaminant or Pollutant).
Rule 102(S)—Definitions (Emission Data).
Rule 102(II)—Definitions (Particulate Matter).
Rule 102(SS)—Definitions (Section).
Rule 203—Exceptions to Rule 202, (Visible Emissions).
Rule 205—Nuisance.
Rule 206(B)—Pathological Incineration.
Rule 207—Particulate Matter.
Rule 208—Orchard or Citrus Heaters.
Rule 211—Process Weight Per Hour.
Rule 213—Storage of Petroleum Products.
Rule 215—Abrasive Blasting.
Rule 216—Enforcement.
Rule 301—Open Outdoor Fires.
Rule 302—Exceptions to Rule 301.
Rule 303—Burning Permits.
Rule 304—Exceptions to Rule 303.
Rule 307—Exceptions to Rule 306 (No-Burn Days).
Rule 308—Agricultural Burning Reports.
Rule 319—Open Burning of Wood Waste on Property where Grown.
Rule 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321—Hazard Reduction Burning.
Rule 322—Mechanized Burners.
Rule 324—Penalty.
Rule 402—Authority to Inspect.
Rule 407—Circumvention.
Rule 409—Public Records.
Rule 507—Provision of Sampling and Testing Facilities.
Rule 514—Appeals.
Rule 516—Analysis Fees.
Rule 600—Applicable Articles of the Health and Safety Code.
Rule 601—General.
Rule 602—Filing Petitions.
Rule 603—Contents of Petitions.
Rule 604—Petitions for Variances.
Rule 605—Appeal from Denial.
Rule 606—Failure to Comply with Rules.
Rule 607—Answers.
Rule 608—Dismissal of Petition.
Rule 609—Place of Hearing.
Rule 610—Notice of Public Hearing.
Rule 611—Evidence.
Rule 612—Preliminary Matters.
Rule 613—Official Notice.
Rule 614—Continuances.
Rule 615—Decision.
Rule 616—Effective Date of Decision.
Rule 617—Lack of Permit.
Rule 619—Order of Abatement.
Rule 620—Severability.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional

Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-26970 Filed 9-15-77;8:45 am]

[FRL 792-3]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Mariposa County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Mariposa County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Mariposa County Air Pollution Control District, Highway 140, Mariposa, Calif. 95338.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B)—Definitions (Agriculture Burning).
Rule 102(E)—Definitions (Air Contaminant or Pollutant).
Rule 102(S)—Definitions (Emission Data).
Rule 102(II)—Definitions (Particulate Matter).
Rule 102(SS)—Definitions (Section).
Rule 203—Exceptions to Rule 202 (Visible Emissions).
Rule 205—Nuisance.
Rule 206(B)—Pathological Incineration.
Rule 207—Particulate Matter.
Rule 208—Orchard or Citrus Heaters.
Rule 211—Process Weight Per Hour.
Rule 213—Storage of Petroleum Products.
Rule 215—Abrasive Blasting.
Rule 216—Enforcement.
Rule 301—Open Outdoor Fires.
Rule 302—Exceptions to Rule 301.
Rule 303—Burning Permits.
Rule 304—Exceptions to Rule 303.
Rule 308—Agricultural Burning Reports.
Rule 319—Open Burning of Wood Waste on Property where Grown.
Rule 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321—Hazard Reduction Burning.
Rule 322—Mechanized Burners.
Rule 324—Penalty.
Rule 402—Authority to Inspect.
Rule 407—Circumvention.
Rule 507—Provision of Sampling and Testing Facilities.
Rule 514—Appeals.
Rule 600—Applicable Articles of the Health and Safety Code.
Rule 603—Contents of Petitions.
Rule 610—Notice of Public Hearing.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857 c-5 and 1857g(a)).

Dated: September 7, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-26971 Filed 9-15-77;8:45 am]

[FRL 792-4]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Nevada County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Nevada County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4). United States Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and following locations:

Nevada County Air Pollution Control District, H.E.W. Complex, Nevada City CA 95959.
California Air Resources Board, 1709-11th Street, Sacramento CA 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B).—Definitions (Agricultural Burning).
Rule 102(E).—Definitions (Air Contaminant or Pollutant).
Rule 102(S).—Definitions (Emission Data).
Rule 102(II).—Definitions (Particulate Matter).
Rule 102(SS).—Definitions (Section).
Rule 103.—Enforcement
Rule 104.—Penalties.
Rule 203.—Exceptions to Rule 202 (Visible Emissions).
Rule 205.—Nuisance.
Rule 206(B).—Pathological Incineration.
Rule 207.—Particulate Matter.
Rule 216.—Abrasive Blasting.
Rule 304.—Exceptions to Rule 303 (Burning Permits).
Rule 319.—Open Burning of Wood Waste on Property where Grown.
Rule 320.—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321.—Hazard Reduction Burning.
Rule 402.—Authority to Inspect.
Rule 407.—Circumvention.
Rule 409.—Public Records.
Rule 507.—Provision of Sampling and Testing Facilities.

Rule 514.—Appeals.
Rule 700.—Applicable Articles of the Health and Safety Code.
Rule 703.—Contents of Petitions.
Rule 704.—Petitions for Variance.
Rule 710.—Notice of Public Hearing.
Rule 711.—Evidence.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DEFALCO, JR.,
Regional Administrator.

[FR Doc.77-26972 Filed 9-15-77;8:45 am]

[FRL 792-5]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Plumas County Air Pollution Control District in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Plumas County Air Pollution Control District (APCD) has adopted changes to their rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 17, 1977.

ADDRESSES: Comments may be sent to: Regional Administrator. Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP section (A-4). United States Environmental Protection Agency Region IX, 100 California Street, San Francisco CA 94111.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Plumas County Air Pollution, Control District, County Courthouse, Quincy CA 95971.
California Air Resources Board, 1709 11th Street, Sacramento CA 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted on June 6, 1977 proposed revisions to the following rules:

Rule 102(B).—Definitions (Agricultural Burning).
Rule 102(E).—Definitions (Air Contaminant or Pollutant).
Rule 102(S).—Definitions (Emission Data).
Rule 102(II).—Definitions (Particulate Matter).
Rule 102(SS).—Definitions (Section).
Rule 203.—Exceptions to Rule 202 (Visible Emissions).
Rule 205.—Nuisance.
Rule 206(B).—Pathological Incineration.
Rule 207.—Particulate Matter.
Rule 208.—Orchard or Cirus Heaters.
Rule 211.—Process Weight Per Hour.
Rule 213.—Storage of Petroleum Products.
Rule 215.—Abrasive Blasting.
Rule 216.—Enforcement.
Rule 301.—Open Outdoor Fires.
Rule 302.—Exceptions to Rule 301.
Rule 303.—Burning Permits.
Rule 304.—Exceptions to Rule 303.
Rule 307.—Exceptions to Rule 306 (No-Burn Days).
Rule 308.—Agricultural Burning Reports.
Rule 319.—Open Burning of Wood Waste on Property where Grown.
Rule 320.—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
Rule 321.—Hazard Reduction Burning.
Rule 322.—Mechanized Burners.
Rule 324.—Penalty.
Rule 402.—Authority to Inspect.
Rule 407.—Circumvention.
Rule 409.—Public Records.
Rule 507.—Provision of Sampling and Testing Facilities.
Rule 514.—Appeals.
Rule 601.—Permit Fees.
Rule 602.—Permit Fee Schedules.
Rule 603.—Analysis Fees.
Rule 604.—Technical Reports.
Rule 605.—Hearing Board Fees.
Rule 700.—Applicable Articles of the Health and Safety Code.
Rule 703.—Contents of Petitions.
Rule 710.—Notice of Public Hearing.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Relevant comments received on or before October 17, 1977, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 1857c-5 and 1857g(a)).

Dated: September 6, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-26973 Filed 9-15-77;8:45 am]

[40 CFR Part 52]

[FRL 793-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Glenn County and Tehama County Air Pollution Control Districts' Rules and Regulations in the State of California

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Glenn County and Tehama County Air Pollution Control Districts (APCD) have adopted changes to their rules concerning upset/breakdown (malfunction). These revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted until October 17, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION:

The following rules were submitted on the indicated dates:

JULY 19, 1974—TEHAMA COUNTY APCD

Rule 4:17, Upset or Breakdown Conditions.

JANUARY 10, 1975—GLENN COUNTY APCD

Section 95.2, Maintenance of Equipment.
Section 95.3, Malfunction of Equipment.

The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before October 17, 1977, will be considered. Comments received will be available for

public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Glenn County Air Pollution Control District, 777 North Colusa Street, Willows, Calif. 95988.
Tehama County Air Pollution Control District, 1760 Walnut Street, Red Bluff, Calif. 96080.
California Air Resources Board, 1709-11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g))

Dated: August 3, 1977.

R. L. O'CONNELL,
Acting Regional Administrator.

[FR Doc.77-27064 Filed 9-15-77;8:45 am]

[40 CFR Ch. I]

[FRC 762-4]

NOISE CONTROL ACT

Development of Administrative Hearing Procedures

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Develop Administrative Hearing Procedures.

SUMMARY: The purpose of this notice is to advise interested members of the public including manufacturers of products which are or will be subject to regulation under the Noise Control Act that the Agency is presently developing administrative hearing procedures under section 11(d) of the Act. Further, by this Notice the Agency is establishing a contact point for all questions or comments regarding this rulemaking.

FOR FURTHER INFORMATION CONTACT:

U.S. Environmental Protection Agency, Noise Enforcement Division, EN-387, Washington, D.C. 20460, Attn: Richard G. Kozlowski, Director, telephone: 202-557-7470.

SUPPLEMENTARY INFORMATION: The Noise Control Act of 1972, (Act), mandates that the Administrator develop regulations to control the sound level of identified major sources of noise (Section 6) and develop regulations for the labeling of products (Section 8).

The first of these regulations under Section 6 will take effect on January 1, 1978, and are applicable to manufacturers of medium and heavy truck (April 13, 1976, 41 FR 15538) and portable air compressors of a rated capacity of no less than 75 cfm up to and including 250 cfm. (January 14, 1976, 41 FR 2162). A second standard for portable air compressors of rated capacity greater than 250 cfm, will take effect on July 14, 1976, 41 FR 2162). Other industries which will likely be subject to regulation are those which manufacture wheel and crawler tractors (regulation proposed on July 11, 1977, 42 FR 35804), and those which manufacture products which have been formally identified for possible regulation by the Agency (buses, truck transport refrigeration units, truck mounted solid waste compactors, and motorcycles, all identified on May 28, 1976 (40 FR 23105); lawnmowers, identified on January 12, 1977 (42 FR 2525); paving breakers and rock drills, identified on February 3, 1977 (42 FR 6722)). Additional products which may be subject to future identification and regulation are automobiles and light trucks, tires, chainsaws, air-conditioners, and earthmoving equipment.

In addition, Section 8 general labeling provisions and a regulation for labeling hearing protectors are presently under development (regulations proposed on June 22, 1977, 42 FR 31729). Similar labeling regulations are under consideration by the Agency for such product classes as household appliances, home shop tools, powered lawn-cart equipment, acoustical building materials, and mufflers for internal combustion engines.

Section 11(d)(1) of the Act authorizes the Administrator to issue remedial orders whenever any person commits prohibited acts set out in Section 10(a) of the Act. Section 11(d)(2) of the Act further requires that these orders be issued only after notice and opportunity for a hearing held in accordance with Section 554 of Title 5 of the United States Code. The development of administrative hearing procedures is designed to implement this requirement and establish procedures that will efficiently and fairly handle the enforcement proceedings likely to occur under the Act.

Dated: September 2, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-27105 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3100]

OIL AND GAS LEASING

Lands Subject to Leasing

BUREAU OF LAND MANAGEMENT, INTERIOR.

ACTION: Proposed rulemaking.

SUMMARY: This proposal would authorize the Department of the Interior to lease lands acquired for military or naval purposes for oil and gas, sodium, phosphate, potassium and sulfur. This proposed change to the Department of the Interior's regulations would reflect the authority granted the Department by section 12(a) of the Federal Coal Leasing Amendments Act of 1975, which amended section 3 of the Mineral Leasing Act for Acquired Lands. This regulation would increase the amount of land available for oil and gas leasing.

DATE: Comments must be received on or before October 17, 1977.

ADDRESS: Send comments to Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

David M. Carty, Branch of Upland Mineral Leasing, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, (202-343-7753), or

Lawrence G. McBride, Branch of Minerals, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, (202-343-4803).

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is David M. Carty, assisted by Lawrence G. McBride. Section 12(a) of the Federal Coal Leasing Amendments Act of 1975, 90 Stat. 1090, repealed the prohibition against the leasing proposed here. The regulatory prohibition reflecting the old statutory provision remains in effect, serving as an exercise of the Secretary's new authority to lease or not to lease such deposits. This proposal would remove the regulatory prohibition and open these lands for mineral leasing under the same terms and conditions as apply to other acquired lands under section 3 of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 352.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly effecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

The environmental impacts of specific leasing proposals under this rule will be examined in accordance with existing environmental assessment procedures for these mineral leasing activities when such proposals are made. This rule commits the Department to no specific leasing activity.

Under the authority of section 12(a) of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1090) it is proposed to amend § 3101.2-1, Subpart 3101, Part 3100, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

Subpart 3101—Lands Subject to Leasing

1. Section 3101.2-1 of Subpart 3101 is amended to read as follows:

§ 3101.2–1 Lands to which the Act does not apply.

* * * * *

(f) Within naval petroleum and oil shale reserves and within the National Petroleum Reserve in Alaska, or

* * * * *

GARY J. WICKS,
Deputy Assistant,
Secretary of the Interior.

[FR Doc.77-27029 Filed 9-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[45 CFR Part 1069]

GRANTEE PERSONNEL MANAGEMENT

Community Services Administration

Subpart—Restrictions on Charging Out-of-State Travel to Grant Funds (CSA Instruction 6910–1a)

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would replace the present CSA requirement for prior, written CSA approval of grantee use of grant funds for travel outside of the grantee's community with a requirement for such approval only for out-of-State travel. It would eliminate exceptions to the requirement for prior CSA approval for travel to meetings of professional associations whose efforts are closely related to the poverty program and travel to interview prospective employees or procure services, supplies, or equipment. This rule is proposed so that CSA can develop better control over long-distance grantee travel. Thus grantee travel within a State will not require prior, written CSA approval and all grantee travel out-of-State does require such approval, except for travel in response to an invitation from CSA.

DATE: Comments on this proposed rule must be received on or before October 20, 1977.

It is proposed to make this rule effective November 5, 1977.

ADDRESS: Comments should be addressed to Ms. Faye Rattner, Chief, Policy Development and Review Division, Community Services Administration, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ms. Faye Rattner, phone, 202–254–5670.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

GRACIELA (GRACE) OLIVAREZ,
Director.

Therefore, it is proposed to amend 45 CFR 1069.3–5 as follows, effective November 5, 1977:

§ 1069.3–5 Restrictions on charging out-of-State travel costs to grant funds.

(a) Grantees may use CSA grant funds for out-of-State travel costs incurred by grantee and delegate agency employees, consultants, and members of governing and administering boards without obtaining prior CSA approval, if the travel meets the conditions outlined below and meets the geographical limitations of § 1069.3–6:

(1) Travel in response to a specific invitation from CSA to attend a conference or meeting for the purpose of furthering grantee activity.

(2) For the District of Columbia only, if the travel is within a radius of 50 miles of the grantee's or delegate agency's headquarters.

[FR Doc.77-27028 Filed 9-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77–40]

RULES OF PRACTICE AND PROCEDURE; SUBPENAS AND DISCOVERY REQUESTS DIRECTED TO COMMISSION STAFF PERSONNEL; REPLIES TO APPEALS

Notice of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to file comments.

SUMMARY: The Maritime Administrative Bar Association requests an enlargement of 45 days to file comments in response to the notice of proposed rulemaking in this proceeding (42 FR 40452; August 10, 1977). Thirty days have already been provided for comment. An additional 30 days would appear sufficient under the circumstances. Accordingly, time within which comments may be filed is enlarged to and including October 11, 1977.

DATES: Comments on or before October 11, 1977.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Room 11101, 1100 L Street NW., Washington, D.C. 20573 (202–523–5727).

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-27040 Filed 9-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21338; RM–2745]

TELEVISION BROADCAST STATION IN SIKESTON, MISSOURI

Proposed Changes In Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Notice proposes to assign UHF television Channel 45 to Sikeston, Mo. Action initiated by petition for rulemaking filed by Delta Projects, Inc. This action would bring the community its first local television service.

DATES: Comments must be received on or before October 18, 1977, and reply comments on or before November 8, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard, III, Broadcast Bureau, 202–632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 2, 1977.

Released: September 9, 1977.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Sikeston, Mo.), Docket No. 21338, RM–2745

1. The Commission has under consideration a petition for rule making, seeking amendment of § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments. The petition was filed by Delta Projects, Inc. ("Delta") requesting the assignment of Channel 45 to Sikeston, Mo.

2. According to the 1970 U.S. Census, Sikeston had a population of 14,699. The current population estimate cited by the petitioner is 17,000. Sikeston lies partially in New Madrid County (1970 population of 23,420), but is situated primarily in Scott County (1970 population of 33,250). Sikeston is located midway between Memphis and St. Louis, and lies about 48 kilometers (30 miles) west of the Mississippi River. It is located in the "bootheel" of Missouri.

3. According to the petitioner, Sikeston was incorporated in 1874. Manufacturing and retail trade are the principal sources of employment opportunities and retail trades have been on the increase in Sikeston and Scott County. Delta supplied retail trade figures for both Scott and New Madrid counties from Sales Management Survey of Buying Power, which reported 1972 totals of $81,331,000.00 to $63,365,000.00, respectively.

4. Although Sikeston is located within the Grade B contours of TV stations located some distance away, it does not have a local TV broadcast station nor is there one elsewhere in Scott or New Madrid Counties.

5. In view of the above, the Commission is persuaded that a sufficient public interest showing has been made to warrant further consideration of petitioner's proposal in a rulemaking proceeding. Channel 45 may be assigned in accordance with the Commission's distance separation requirements and other technical criteria and could bring the community its first local television service. Therefore, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Sikeston, Mo.	45–	

6. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before October 18, 1977, and reply comments on or before November 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commision's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-27007 Filed 9-15-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21389; RM-2852]

TELEVISION BROADCAST STATIONS IN CLARKSDALE AND GREENVILLE, MISS., AND IN BIRMINGHAM, ALA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Federal Communications Commission proposes to substitute TV Channel *21 for Channel *22 in Clarksdale, Miss., and to substitute Channel 44 for Channel 21 in Greenville, Miss. The assignment of Channel *21 to Clarksdale, Miss., will require a change in the offset designation of the unoccupied Channel 21 Birmingham, Ala., assignment (from zero to minus). This action would enhance the possibility of a UHF station's becoming active in this area. This action was initiated by a petition for rulemaking filed by Big River Broadcasting Co., applicant for a TV station at Greenville, Miss.

DATES: Comments must be received on or before October 21, 1977, and Reply Comments must be received on or before November 10, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Thomas L. McCrickard, III, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 6, 1977.

Released: September 9, 1977.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Clarksdale and Greenville, Miss., Birmingham, Ala.), Docket No. 21389, RM-2852.

1. The Commission has under consideration a petition for rule making filed by Big River Broadcasting Co. ("Big River"). To avoid a short-spacing problem which otherwise would affect its application for a new TV station on Channel 15 at Greenville, Miss., Big River seeks amendment of § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments, by the substitution of Channel *21 for the Channel *22 assignment in Clarksdale, Miss., and the substitution of Channel 44 for the Channel 21 assignment in Greenville, Miss. Both of the existing assignments are unoccupied and unapplied for.

2. Clarksdale (pop. 21,673),[1] seat of Coahoma County (pop. 40,447), is located in northwest Mississippi. Greenville (pop. 39,648), seat of Washington County (pop. 70,581), is located in west central Mississippi, approximately 100 kilometers (62 miles) south of Clarksdale.

3. Big River filed an application on October 14, 1976, for authority to construct a new UHF television station to operate on Channel 15 at Greenville, Miss. The application was accepted for filing and given file number BPCT-4970. Big River contends that the site specified in its application, to the northeast of Greenville, would be advantageous in order to afford ample signal coverage to the north (Clarksdale) and to the east (Greenwood). However, this proposed transmitter site does not comply with the minimum mileage separation requirements of the Commission's rules and regulations. The proposed site would be short-spaced by approximately 35 kilometers (22 miles) to Channel *22 in Clarksdale. Petitioner contends that none of the other available sites would comply with the separation requirements and yet enable a new UHF TV station to reach a sufficient number of potential viewers.[2]

4. Rather than select a less desirable site, or abandon the attempt to construct a new television station for Greenville, Big River proposes to remove the short-spacing by substituting Channel 44 for Channel 21 in Greenville and substituting *21 for Channel *22 in Clarksdale. These changes can be accomplished in full compliance with the mileage separation requirements. However, the assignment of Channel *21 to Clarksdale, Miss. will require a change in the offset designation of the unoccupied co-channel Birmingham, Ala. assignment (from zero to minus).

5. The Commission believes that these changes would be in the public interest

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

[2] The proposed transmitter site would be 39 kilometers (24 miles) from Greenville, 43 kilometers (27 miles) from Clarksdale, and 50 kilometers (31 miles) from Greenwood. This location would allow coverage of these as well as other surrounding communities which petitioner states is essential to the creation of a viable UHF television operation.

since they would aid in bringing an additional commercial television service to the residents of this area. Also, this action would promote the establishment of the first commercial UHF television service in this area, and only the third commercial UHF station in the state.

6. Therefore, we propose to consider the following revisions in the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) with respect to the cities listed below:

City	Channel No.	
	Present	Proposed
Greenville, Miss..	15−, 21−	15−, 44−
Clarksdale, Miss..	*21−	*21
Birmingham, Ala.	6−, *10−, 13−, 21, 42+, *62+, 68+	6−, *10−, 13−, 21−, 42+, *62+, 68+

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

8. Interested parties may file comments on or before October 21, 1977, and reply comments on or before November 10, 1977.

MARTIN I. LEVY,
Acting Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-27008 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

PROTECTION FOR THREATENED SPECIES OF WILDLIFE

Proposed Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service issues a proposed rulemaking which would further protect threatened species of wildlife. Certain regulations currently prohibit the possession of illegally taken endangered species only, as well as their commercial transportation and sale or offer for sale in foreign or interstate commerce. It is proposed to have these protective regulations also apply to threatened species. (See FR Doc. 2751 in the Rules Section of the FEDERAL REGISTER for an emergency rule on the same subject.)

DATE: All relevant comments with regard to this proposed rulemaking received no later than November 15, 1977, will be considered.

ADDRESSES: Comments should be sent, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 19183, Washington, D.C. 20236. Comments will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K St. NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20236 (202-343-9237).

SUPPLEMENTARY INFORMATION: This proposed rule is currently in effect under the special emergency rulemaking procedure authorized by the Endangered Species Act of 1973, 16 U.S.C. 1533(f)(2)(B)(ii), as amended.

On May 11, 1976, the Service amended 50 CFR Part 17 to incorporate the State Cooperative Agreement Program into the Service's endangered and threatened species regulations. In particular, an amendment adding a new subsection (5) to § 17.21(c) authorized certain designated State employees in States with cooperative agreements to take endangered species without a permit for conservation purposes. This exemption did not apply in the following four situations:

(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.

If a proposed taking was to involve any one of those four situations, a regular endangered species permit would be required.

This amendment to § 17.21(c)(5) was similar to an already existing permit exemption for threatened species in § 17.31(b), which for the convenience of the reader is set forth below:

(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.

The major difference in treatment between endangered and threatened species under a cooperative agreement is that the four restrictions on the taking

of an endangered species do not apply to threatened species under § 17.31(b).

The addition of § 17.21(c)(5), however, necessitated an amendment to § 17.31(a) which sets out the general prohibitions for activities involving threatened species. No prohibitions automatically cover threatened species under the Endangered Species Act of 1973, and the establishment of protective regulations is discretionary with the Service. The Service exercised this discretion in the original set of regulations implementing the 1973 Act and determined that as a general rule, all of the prohibitions applying to endangered species would apply to threatened species, unless otherwise provided for in a special rule. For the convenience of the reader, the original version of § 17.31(a) published at 40 F44412 is set forth below:

§ 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 shall apply to threatened wildlife.

* * * * *

Thus, as a general rule all of the prohibitions and provisions of § 17.21 for endangered species were adopted and transferred over for threatened species under § 17.31(a).

Such a transference of the provisions of § 17.21 would include the newly adopted § 17.21(c)(5) dealing with cooperative agreements and endangered species. It has already been pointed out that § 17.21(c)(5) was more restrictive in its authorization of cooperative agreement activities with endangered species, than was § 17.31(b)'s authorization of cooperative agreement activities with threatened species. To avoid this conflict, it was deemed necessary to exclude § 17.21(c)(5) from the general transference provisions of § 17.31(a). The original preamble for the May 11th final rulemaking stated the problem as follows:

The adoption of amendment number 4 requires a slight modification of § 17.31(a) dealing with the prohibitions applicable to Threatened Species. Section 17.31(a) presently states that with a few specific exceptions, all of the provisions of § 17.21, for Endangered Species, shall apply to Threatened Species. While it has been noted that a provision similar to amendment number 4 already exists in § 17.31(b) for Threatened Species, it is not identical because it does not require the State to get a permit in the four situations set forth for § 17.21(c)(5) in amendment number 4.

The present language of § 17.31(a), in stating that all of the provisions of § 17.21, including the newly adopted § 17.21(c)(5), apply to Threatened Species, creates confusion as to the circumstances under which a Threatened Species may be taken without a permit under a Cooperative Agreement. The transference of the provisions of § 17.21 to Threatened Species would include the four restrictions on taking without a permit, while the present language in § 17.31(b) does not.

The Service proposed in amendment number 5, below, to eliminate this confusion by expressly excluding the transference of the provisions of § 17.21(c)(5) in § 17.31(a). This reaffirms the intent of the present language of § 17.31(b) to provide the maximum State autonomy possible under a Cooperative Agreement for the conservation of Threatened Species.

Thus, it was the intention of the Service to amend § 17.31(a) so that all of the provisions of § 17.21 applied to threatened species except § 17.21(c)(5).

Because of an inadvertent omission, however, not only was § 17.21(c)(5) excluded from applicability to threatened species, but § 17.21 (d), (e) and (f) as well. Instead of § 17.31(a) reading "* * * all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).", the May 11th final rulemaking amended § 17.31(a) to read "* * * all of the provisions in § 17.21(a) through (c)(4) shall apply to threatened wildlife." The exclude subsections 17.21 (d), (e) and (f) set out the prohibitions dealing with the possession of illegally taken endangered species, as well as the commercial transportation or sale or offer for sale in interstate or foreign commerce of endangered species. It is the position of the Service that these prohibitions are clearly necessary for the conservation of threatened species of fish or wildlife. Furthermore, the Service contends that the absence of these protective regulations creates a significant risk to the well being of threatened species of fish or wildlife.

The primary author of this document is Marshall L. Stinnett, Division of Law Enforcement.

NOTE.—The Service has determined that this document 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. Accordingly, an environmental impact statement shall not be required.

Accordingly, it is proposed to amend § 17.31(a) to read as follows:

§ 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 shall apply to threatened wildlife, except § 17.21(c)(5).

* * * * *

NOTE.—The Service has determined that this document does not contain a major rulemaking requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 9, 1977.

WALTER R. MCALLISTER,
Director,
Fish and Wildlife Service.

[FR Doc.77-27050 Filed 9-15-77;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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

MEETING

Notice is hereby given in accordance with the Council's Procedures for the Protection of Historic and Cultural Properties (36 C.F.R. 800) that the regular meeting of the Advisory Council on Historic Preservation will be held on October 11–12, 1977, in Washington, D.C. The entire meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (Pub. L. 89–665, as amended, Pub. L. 94–422) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretaries of the Interior; Housing and Urban Development; Commerce; Treasury; Agriculture; Transportation; State; Defense; Health, Education, and Welfare; and Smithsonian Institution; the Attorney General; Chairman of the Council on Environmental Quality; Chairman of the Federal Council on the Arts and Humanities; Architect of the Capitol; Chairman of the National Trust for Historic Preservation; President of the National Conference of State Historic Preservation Officers; and twelve non-Federal members appointed by the President.

The meeting will begin at 9:00 a.m. on Tuesday and Wednesday, October 11–12, 1977, at the Cash Room, Department of the Treasury, 15th & Pennsylvania Avenue, NW, Washington, D.C. 20220.

The agenda for the meeting includes the following:

I. Report of the Executive Director.
II. Report of the General Counsel.
III. Report of the Director of Intergovernmental Programs and Planning.
IV. Report of the Office of Review and Compliance.
VI. Memorandum of Understanding Between Council and Economic Development Administration Regarding Community Emergency Drought Relief Program.
VII. Memorandum of Understanding Between Council and National Park Service Regarding Grants-in-Aid Program.
VIII. Other Business.

For reasons of security in Federal buildings, those wishing to attend must have a Government Identification Card, or notify the Council by September 28 of their name, address, and social security number. Notify the Council in writing at Suite 530, 1522 K Street, NW, Washington, D.C. 20005, or call (202) 634–4153.

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 530, 1522 K Street NW., Washington, D.C. 20005 (202) 254–3974.

Dated: September 7, 1977.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-26975 Filed 9-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

SIERRA SKI RANCH EXPANSION, ELDORADO NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the proposed expansion of Sierra Ski Ranch Winter Sports Site, Eldorado National Forest, Calif., USDA–FS–R5–FES (ADM) 77–04.

The environmental statement concerns the proposed expansion of a winter sports site near Echo Summit in the Eldorado National Forest. The area is located in El Dorado County, Calif., approximately 83 miles east of Sacramento, and is accessible by U.S. Highway 50. There are no inventoried roadles areas within the proposed expansion boundary.

The final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on September 12, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th Street and Independence SW., Washington, D.C. 20250.
Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, Calif. 95667.
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, Calif. 94111.
Forest Service, District Ranger, Placerville District, 3491 Carson Court, Placerville, Calif. 95667.

A limited number of single copies are available, upon request, from Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, Calif. 95667.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Acting Deputy Chief.

SEPTEMBER 12, 1977.

[FR Doc.77-27048 Filed 9-15-77;8:45 am]

Packers and Stockyards Administration

ROGUE VALLEY LIVESTOCK AUCTION, INC., CENTRAL POINT, OREGON

Change of Address

On January 4, 1972, a notice was published in the FEDERAL REGISTER, 37 FR 47, advising all interested parties that stockyard facility numbers were being assigned to all stockyards posted under the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq). Included in this publication was the name of the Rogue Valley Livestock Auction, Inc., Medford, Oregon. This stockyard was assigned stockyard facility number OR–115.

The purpose of this notice is to show that the mailing address has been changed to Central Point, Oregon. The stockyard known as Rogue Valley Livestock Auction, Inc., Central Point, Oregon, will remain posted as a stockyard within the definition of that term contained in section 302 of the Act (7 U.S.C. 202) and will remain subject to the provisions of the Act. This stockyard will retain the stockyard facility number, OR–115.

Done at Washington, D.C. this 12th day of September, 1977.

JOHN R. BRANNIGAN,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-26976 Filed 9-15-77;8:45 am]

Rural Electrification Administration

LOWER VALLEY POWER AND LIGHT, INC.

Final Supplement to the Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Supplement to the Final Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from Lower Valley Power and Light, Inc., P.O. Box 188, Afton, Wyoming 83110. The Final Supplement addresses

staff evaluation of the most recent denial of the applicant's proposed Snake River crossing by the U.S. Department of the Interior.

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. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Final Supplement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines. The Final Supplement 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., Room 4310 or at the address of Lower Valley Power and Light, indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before October 17, 1977, to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 9th day of September, 1977.

DAVID A. HAMIL,
Administrator.

[FR Doc.77-26974 Filed 9-15-77;8:45 am]

Soil Conservation Service

WASHINGTON MOUNTAIN BROOK WATERSHED, MASS.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Washington Mountain Brook Watershed, Berkshire County, Mass.

The environmental assessment of this Federal action indicates that the project will cause significant local, regional, or national impacts on the environment. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and recreation development. The planned works of improvement remaining to be installed include conservation land treatment supplmented by two multiple purpose dams, recreation facilities, and channel work consisting of 50 feet of concrete channel and about 100 feet of debris removal along Washington Mountain Brook.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, 29 Cottage Street, P.O. Box 848, Amherst, Mass. 01002.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

Dated: September 9, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, United States Department of Agriculture.

[FR Doc.77-27019 Filed 9-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 31377, 31379]

BRITISH AIRWAYS CARGO CONTRACT RATES (UNITED KINGDOM–UNITED STATES)

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 16, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Acting Chief Administrative Law Judge, by telex, to be received in his office on September 14, 1977, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., September 13, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc. 77-27047 Filed 9-15-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (European and NATO Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

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

[FR Doc.77-26907 Filed 9-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Office of Policy Development and Planning, Office of the Assistant Secretary for Health, Public Health Service.

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

[FR Doc.77-26910 Filed 9-15-77;8:45 am]

INTERGOVERNMENTAL PERSONNEL ACT OF 1970

Allocations of Grant Funds

Pursuant to 5 CFR 900.301(a), notice is hereby given of the allocations of funds available for grants under the Intergovernmental Personnel Act of 1970, Pub. L. 91-648, 84 Stat. 1909. For grants under the Act, Congress has appropriated $20 million for Fiscal Year 1978. Eighty percent of this amount must be allocated by weighted formula among the States and between State and local government needs, as required by Section 506 of the Act. Under the Act, the term "local government" also means the recognized Indian governing bodies performing substantial governmental functions.

INTERGOVERNMENTAL PERSONNEL ACT
FORMULA GRANT ALLOCATIONS FOR FISCAL YEAR 1978

STATE	TOTAL STATE ALLOCATION	MINIMUM SHARE FOR LOCAL GOV'T NEEDS *
Alabama	$ 255,000	$ 127,500
Alaska	90,000	45,700
Arizona	173,000	86,500
Arkansas	147,000	73,500
California	1,564,000	979,500
Colorado	198,000	99,000
Connecticut	212,000	132,100
Delaware	90,000	45,000
D.C.	90,000	--
Florida	608,000	331,300
Georgia	357,000	178,500
Hawaii	90,000	45,000
Idaho	90,000	45,000
Illinois	762,000	381,000
Indiana	371,000	185,500
Iowa	214,000	107,000
Kansas	175,000	78,500
Kentucky	232,000	116,000
Louisiana	289,000	144,500
Maine	90,000	45,000
Maryland	313,000	203,100
Massachusetts	418,000	273,300
Michigan	654,000	327,000
Minnesota	292,000	148,100
Mississippi	170,000	85,000
Missouri	$ 334,000	$ 167,000
Montana	90,000	45,000
Nebraska	119,000	59,500
Nevada	90,000	47,100
New Hampshire	90,000	45,000
New Jersey	524,000	325,100
New Mexico	94,000	47,000
New York	1,365,000	984,400
North Carolina	392,000	243,700
North Dakota	90,000	45,000
Ohio	722,000	394,000
Oklahoma	204,000	102,000
Oregon	176,000	88,000
Pennsylvania	780,000	390,000
Rhode Island	90,000	45,000
South Carolina	208,000	104,000
South Dakota	90,000	45,000
Tennessee	308,000	190,300
Texas	913,000	456,500
Utah	93,000	46,500
Vermont	90,000	45,000
Virginia	376,000	231,200
Washington	261,000	130,500
West Virginia	133,000	66,500
Wisconsin	334,000	199,600
Wyoming	90,000	45,000
TOTALS	$16,000,000	$8,879,500

* Must be at least 50 percent of the State's total allocation

PARAGRAPH 1. *Award of grant funds.* The allocations for Fiscal Year 1978 are furnished now to permit advance planning for the use of these funds. The funds will be available for award to eligible grantees after September 30, 1977. In most States, formula funds are awarded to a State agency designated by the Governor on the basis of a statewide program developed cooperatively by the State and local jurisdictions. Formula funds allocated for the use of the fifty States are awarded by the Commission's regional offices. Formula funds allocated for the use of the District of Columbia are awarded by the Commission's Bureau of Intergovernmental Personnel Programs.

PARAGRAPH 2. *Minimum allocations for individual States and for meeting the needs of local governments.* When the dollar allocation for a State would be less than $90,000, it has been raised to that level; with the funds required for this purpose being derived by adjusting proportionately the allocations for the other States. The minimum allocation for meeting the needs of local governments in each State is established by the Intergovernmental Personnel Act as 50 percent of the State's total allocation.

PARAGRAPH 3. *Use of grant funds.* Under the Intergovernmental Personnel Act, the U.S. Civil Service Commission is authorized to make grants to State governments; to general local governments, or combinations of local governments, that serve a population of fifty thousand or more; or to eligible Indian tribal governments for up to 50 percent of the costs of projects to strengthen personnel administration or to train professional, administrative, and technical employees and officials. To obtain the greatest benefit from limited funds, jurisdictions are urged to place emphasis on high-priority management improvement projects which will have lasting impact or otherwise serve as demonstration models for use by other jurisdictions.

PARAGRAPH 4. *Obtaining further information.* State, local, and Indian government executives or other interested persons may obtain further information on the grant program from the appropriate office of the U.S. Civil Service Commission.

UNITED STATES CIVIL SERVICE REGIONS

For convenience in administration of the field service the Commission has divided the United States into regions. The following shows the names of the Commission's regional directors and their headquarters, and the geographical areas over which these officials have jurisdiction, for Intergovernmental Personnel Act programs as well as other Commission programs.

REGION	HEADQUARTERS	DIRECTORS	AREA SERVED
Atlanta	1340 Spring Street, N.W. Atlanta, Ga. 30309	David Caldwell	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
Boston	John W. McCormack Post Office and Courthouse Bldg. Boston, Mass. 02109	Charles A. Maher	Connecticut, Maine Massachusetts, New Hampshire, Rhode Island, and Vermont
Chicago	Federal Office Bldg. 29th Floor 230 S. Dearborn St. Chicago, Ill. 60604	Keith A. Roelofs	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
Dallas	1100 Commerce Street Dallas, Texas 75202	Edward Vela, Jr.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
Denver	Building 20 Denver Federal Center Denver, Colo. 80225	George F. Dwyer	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
New York	Federal Building 26 Federal Plaza New York, N.Y. 10007	John J. Lafferty	New Jersey, New York, Puerto Rico, and the Virgin Islands
Philadelphia	William J. Green, Jr. Federal Building 600 Arch Street Philadelphia, Pa. 19106	Robert E. Sperry	Delaware, Maryland, Pennsylvania, Virginia, and West Virginia
St. Louis	1256 Federal Building 1520 Market Street St. Louis, Mo. 63103	Robert J. Dunn	Iowa, Kansas, Missouri, and Nebraska
San Francisco	Federal Building, Box 36010 450 Golden Gate Avenue San Francisco, Calif. 94102	Francis V. Yanak	Arizona, California, Hawaii, Nevada, and the Pacific Overseas Area
Seattle	Federal Building 915 Second Ave., 26th Fl. Seattle, Wash. 98174	Thomas G. McCarthy	Alaska, Idaho, Oregon, and Washington

For the IPA Grant Program in Washington, D. C.

Norman Beckman
Director
Bureau of Intergovernmental Personnel Programs
U.S. Civil Service Commission
Washington, D.C. 20415

Dated: September 16, 1977.

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

[FR Doc.77-26776 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE NAVY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Special Assistant for Financial Management, Office of the Assistant Secretary of the Navy (Financial Management).

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

[FR Doc.77-26908 Filed 9-15-77;8:45 am]

DEPARTMENT OF STATE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of State to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.77-26909 Filed 9-15-77;8:45 am]

EXPORT-IMPORT BANK OF THE UNITED STATES

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 Export-Import Bank of the United States to fill by noncareer executive assignment in the excepted service the position of Assistant to the President and Chairman for Transition Planning, Office of the President and Chairman.

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

[FR Doc.77-26957 Filed 9-15-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

COSMOS FOOTWEAR CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Cosmos Footwear Corp., 1350 Broadway, New York, N.Y. 10018, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business September 26, 1977.

JACK W. OSBURN, Jr.,
Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27023 Filed 9-15-77;8:45 am]

LINDA JO SHOE CO.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Linda Jo Shoe Co., Inc., 420 West Garnett Street, Gainesville, Tex. 76240, a producer of footwear for women was accepted for filing on September 12, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 26, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27022 Filed 9-15-77;8:45 am]

MARLBORO FOOTWEAR CORPORATION

Petition for a Determination of Eligibilty To Apply for Trade Adjustment Assistance

A petition by Marlboro Footwear Corp., 49 Cotting Avenue, Marlboro, Mass. 01752, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States or articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 26, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27025 Filed 9-15-77;8:45 am]

MILLER, HESS & COMPANY, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Miller, Hess & Company, Inc., 7th and Main Streets, Akron, Pennsylvania 17501, a producer of footwear for women, was accepted for filing on September 9, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of September 26, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-27024 Filed 9-15-77;8:45 am]

Foreign-Trade Zones Board

[Order No. 123]

GREATER MIAMI FOREIGN TRADE ZONE, INC.

Resolution and Order Approving Application for Permanent and Temporary Trade Zone Sites in Dade County, Florida

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following resolutions and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Greater Miami Foreign Trade Zone, Inc., Dade County, Florida, filed with the Foreign-Trade Zones Board (the Board) on March 16, 1977, as amended May 20, 1977, requesting a grant of authority for establishing, operating, and maintaining a foreign-trade zone in Dade County, Florida, and a warehouse facility to be operated as a temporary site until the permanent facility is fully operational, both sites being within or adjacent to the Miami Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the permanent proposal involves an industrial park type zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the permanent zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN PERMANENT AND TEMPORARY FOREIGN-TRADE ZONE SITES IN DADE COUNTY, FLORIDA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u), (hereinafter referred to as "the Act"), the Foreign-Trade Zones Board (hereinafter referred to as "the Board") is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Greater Miami Foreign Trade Zone, Inc. (the Grantee) has made application (filed March 16, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a permanent foreign-trade zone, as well as a temporary zone site, both in Dade County, Florida, within or adjacent to the Miami Customs port of entry;

Whereas, the Grantee amended its application (filed May 20, 1977) in due and proper form to change the site for the permanent zone, the amended site being within the same level land section as the original one;

Whereas, notice of said application and amendment has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating and maintaining a permanent foreign-trade zone, designated on the records of the Board as Zone No. 32, in Dade County, Florida, at the location described on the maps and drawings accompanying the amended application, marked as Exhibits IX and X, and a temporary foreign-trade zone, designated as Zone No. 32 (temporary), also in Dade County at the location described on the maps and drawings marked as Exhibits IX and X of the original application, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to-wit:

Operation of the foreign-trade zone sites shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The temporary zone site will be deactivated within a reasonable time after the permanent site is fully operational and at that time zone status for this site will expire.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within either zone site.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone sites, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 6th day of September, 1977 pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
JUANITA M. KREPS,
Chairman and Executive Officer.

Attest:
JOHN J. DAPONTE,
Executive Secretary.

[FR Doc.77-27000 Filed 9-15-77;8:45 am]

[Order No. 122]

TRI-CITY REGIONAL PORT DISTRICT, GRANITE CITY, ILL.

Resolution and Order Approving Application for a Foreign-Trade Zone

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

"After consideration of the application of the Tri-City Regional Port District, Granite City, Ill., filed with the Foreign-Trade Zones Board (the Board) on January 27, 1977, requesting a grant of authority for establishing, operating, and maintaining a foreign-trade zone in the Tri-City Industrial Center, Granite City, Ill., within the St. Louis Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

Since the proposal involves an industrial park type zone that envisages the construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order."

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN GRANITE CITY, ILL.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to

expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u), (hereinafter referred to as "the Act"), the Foreign-Trade Zones Board (hereinafter referred to as "the Board") is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Tri-City Regional Port District (hereinafter referred to as "the Grantee"), has made application (filed January 27, 1977) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Granite City, Ill., within the St. Louis Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 31, at the location mentioned above and more particularly described on the maps and drawings accompanying the application requesting authority for a foreign-trade zone in Granite City, Ill., marked as Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to-wit:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 6th day of September 1977 pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD.
JUANITA M. KREPS,
Chairman and Executive Officer.
Secretary of Commerce.

Attest:

[FR Doc.77-27001 Filed 9-15-77;8:45 am]

National Bureau of Standards

CEMENT AND CONCRETE TECHNOLOGY

Workshop

The National Bureau of Standards and the Energy Research and Development Administration will hold a workshop on possible contributions of cement and concrete technology to energy conservation by the year 2000. The workshop will be held at the National Bureau of Standards in Gaithersburg, Maryland, on Monday and Tuesday, October 3 and 4, 1977. Each day's proceedings will begin at 8:45 a.m. with a plenary session in Lecture Room A of the Administration Building at which working group assignments will be reviewed. Subsequently, individual working groups will meet in Lecture Rooms A, B, and D, and Room B113 of the Administration Building, Room B163 of the Chemistry Building, Room B27 of the Technology Building (October 3 only) and Room A340 of the Metrology Building (October 4 only).

The purposes of the workshop are to (a) identify research needs relating to possible contributions of cement and concrete technology to energy conservation in the near term and by the year 2000 and (b) identify issues, and possible restraints, relating to the exploitation of energy conservation opportunities in the cement and concrete areas.

The public is invited to attend the workshop. A period will be set aside during the plenary sessions for oral comments or questions by the public which do not exceed 5 minutes each. More extensive questions or comments should be submitted in writing before October 1, 1977. Other public statements regarding issues before the workshop may be submitted at any time before or after the workshop.

Persons planning to attend should notify Geoffrey Frohnsdorff, Room B348, Building Research Building, Center for Building Technology, Institute for Applied Technology, National Bureau of Standards, Washington, D.C. 20234 (telephone 301–921–3458).

Dated: September 12, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-26921 Filed 9-15-77;8:45 am]

National Oceanic and Atmospheric Administration

PRELIMINARY FISHERY MANAGEMENT PLANS AND PROPOSED FOREIGN FISHING REGULATIONS

Public Meeting

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190), the National Oceanic and Atmospheric Administration has prepared draft supplements to final environmental impact statements for preliminary fishery management plans prepared in accordance with the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). Notice is hereby given of public meetings to be held by the National Marine Fisheries Service to receive public views and comments on the draft supplements applicable to the following preliminary fishery management plans:

1. Atlantic Herring Fishery of the Northwestern Atlantic.
2. Foreign Trawl Fisheries of the Northwestern Atlantic.
3. Hake Fisheries of the Northwestern Atlantic.
4. Mackerel Fishery of Northwestern Atlantic.
5. Squid Fisheries of the Northwestern Atlantic.

The notice of availability of supplements to final environmental impact statements for preliminary fishery management plans was published on September 6, 1977 (42 FR 44569).

Proposed amendments to foreign fishing regulations promulgated under Pub. L. 94–265 were published on September 9, 1977 (42 FR 45551) Public meetings will be held at the following locations, dates, and times to receive public views and comments on the draft supplements to final environmental impact statements for the above named plans and proposed amendments to foreign fishing regulations:

SEPTEMBER 27, 1977, OCEAN CITY, MD
Sheraton Fontainebleau Inn
10100 Ocean Highway
7 p.m. to 10 p.m.

SEPTEMBER 29, 1977, NEW BERN, N.C.
Holiday Inn
Junction U.S. Highways 70 and 17
7 p.m. to 10 p.m.

SEPTEMBER 30, 1977, PEABODY, MASS.
Holiday Inn
Junction U.S. Highways 1 and 128
7 p.m. to 10 p.m.

Written comments from the public may be submitted to the Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930, until October 6.

Dated: September 13, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-26991 Filed 9-15-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC TUNA FISHERIES

Atlantic Bluefin Tuna Season

On September 6, 1977, a notice was published in the FEDERAL REGISTER at 42 FR 44567. This notice announced that the season would be closed at 2400 hours local time on September 9 for the taking of Atlantic bluefin tuna weighing in excess of 300 pounds round weight with gear other than purse seines in the area of the Atlantic Ocean west of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Massachusetts including the waters of Narragansett Bay.

Pursuant to 50 CFR 285.13(b)(1)(i) (see 42 CFR 30374) the quota of such fish for this area was established at 150. Records of the National Marine Fisheries Service indicate that as of September 9, 1977, only 59 fish were taken. Accordingly, pursuant to 50 CFR 285.13(d) the season for the taking of Atlantic bluefin tuna weighing in excess of 300 pounds with gear other than purse seines in the area of the Atlantic Ocean, including Narragansett Bay, west of a line drawn from a point on the southern coast of Massachusetts extending south through Gay Head Light, Massachusetts shall be reopened at 0001 hours local time on September 16, 1977, until the quota of 150 fish is reached.

Issued at Washington, D.C. and dated September 14, 1977.

WINFRED H. MEIBOHM,
Associate Director.

[FR Doc.77-27092 Filed 9-15-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Additions

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

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 16, 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: On June 17, 1977, July 15, 1977, and July 22, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 30883), (42 FR 36543) and (42 FR 37586) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurement List 1977:

Class 7105

Mirror, Glass (SH), 7105-00-260-1390.

Class 7530

Paper, Looseleaf, Blank (IB), 7530-00-286-5778, 7530-00-286-5782, 7530-00-286-5780, 7530-00-286-5781, 7530-00-286-5779, 7530-00-286-5777.

Class 7530

Paper, Looseleaf, Ruled (IB), 7530-00-286-4332, 7530-00-286-4331, 7530-00-286-4333, 7530-00-286-4334, 7530-00-286-4335, 7530-00-198-6265, 7530-00-286-4336, 7530-00-286-4337, 7530-00-286-4338, 7530-00-286-4339, 7530-00-286-6366.

SIC 7349

Custodial Services (SH), Fairchild Air Force Base, Spokane, Wash. At the following locations:

1. Alert Facility, Bldg. 2080
2. Alert Trailers
3. Post Office, Bldg. 644
4. Military Family Housing Office, Bldg. 2451B
5. Audit Agency Office, Bldg. 2245
6. 47th Air Division Hdqtrs, Bldg. 2285
7. Civilian Personnel and NAF (Room 209), Bldg. 2245
8. Red Cross Office, Bldg. 2245
9. Base Library, Bldg. 716
10. Base Chapel, Bldg. 4200
11. Base Education Center, Bldg. 2365
12. Family Visitation Center, Bldg. 2092

Class 7930

Detergent, General Purpose (Synthetic, Nonabrasive) (IB), 7930-00-530-8067, 7930-00-527-1207, 7930-00-527-1237.

Detergent, General Purpose (Liquid Solvent) (IB), 7930-00-985-6945, 7930-00-985-6946.

SIC 7699

Mattress and Boxspring Rehabilitation (IB), For GSA Region 8, Denver, Colo.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27002 Filed 9-15-77;8:45 am]

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 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS: Must be received on or before October 19, 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 commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 5440

Stepladder, Aluminum, 5440-00-514-4483, 5440-00-514-4485, 5440-00-514-4487 (The above for GSA Supply Distribution facilities in Region 7 only).

Class 7210

Covers, Mattress (Cotton Ticking), 7210-00-543-6001, 7210-00-543-6002, 7210-00-140-4231, 7210-00-140-4234.

Class 8430

Footwear Covers, Radioactive Contaminants, 8430-00-890-2079.

Class 8465

Lanyard, Pistol, 8465-00-262-5237, 8465-00-965-1705, 8465-00-753-3363.

SIC None

Magazine Subscription, Madigan Army Medical Center, Tacoma, Wash.

SIC 7349

Custodial Services, Bergstrom AFB, Tex., for building 713, 734, 2004, 2108, and 2501 only.

SIC 7699

Repair and Maintenance of Electric Typewriters at the following locations:

1. Railroad Retirement Board, 844 N. Rush, Chicago, Ill., and 2. HEW, 300 S. Wacker, Chicago, Ill.

SIC 7699

Repair and Maintenance of Electric and Manual Typewriters, Rochester N.Y. (including Monroe County).

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27003 Filed 9-15-77;8:45 am]

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 a proposal to add to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS: Must be received on or before October 19, 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 commodities listed below from workshops for the blind or other severely handicapped.

This notice supersedes the notice of proposed addition of the following commodities published in the FEDERAL REGISTER on August 19, 1977 (42 FR 41903).

It is proposed to add the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 8430

SHOES, MEN'S BLACK OXFORD

8430-00-559-4136	8430-00-559-4243
8430-00-559-4137	8430-00-559-4244
8430-00-559-4138	8430-00-559-4245
8430-00-559-4139	8430-00-559-4246
8430-00-559-4140	8430-00-559-4247
8430-00-559-4141	8430-00-559-4248
8430-00-559-4142	8430-00-559-4249
8430-00-559-4143	8430-00-559-4250
8430-00-559-4194	8430-00-559-4251
8430-00-559-4195	8430-00-559-4252
8430-00-559-4196	8430-00-559-4253
8430-00-559-4197	8430-00-559-4254
8430-00-559-4198	8430-00-559-4255
8430-00-559-4199	8430-00-559-4256
8430-00-559-4200	8430-00-559-4257
8430-00-559-4201	8430-00-559-4258
8430-00-559-4202	8430-00-559-4259
8430-00-559-4203	8430-00-559-4260
8430-00-559-4204	8430-00-559-4261
8430-00-559-4205	8430-00-559-4262
8430-00-559-4206	8430-00-559-4263
8430-00-559-4207	8430-00-559-4264
8430-00-559-4208	8430-00-559-4265
8430-00-559-4209	8430-00-559-4266
8430-00-559-4210	8430-00-559-4267
8430-00-559-4211	8430-00-559-4268
8430-00-559-4212	8430-00-559-4269
8430-00-559-4213	8430-00-559-4270
8430-00-559-4214	8430-00-559-4271
8430-00-559-4215	8430-00-559-4272
8430-00-559-4216	8430-00-559-4273
8430-00-559-4217	8430-00-559-4274
8430-00-559-4218	8430-00-559-4275
8430-00-559-4219	8430-00-559-4276
8430-00-559-4220	8430-00-559-4277
8430-00-559-4221	8430-00-559-4278
8430-00-559-4222	8430-00-559-4279
8430-00-559-4223	8430-00-559-4280
8430-00-559-4224	8430-00-559-4281
8430-00-559-4225	8430-00-559-4282
8430-00-559-4226	8430-00-559-4283
8430-00-559-4227	8430-00-559-4284
8430-00-559-4228	8430-00-559-4285
8430-00-559-4229	8430-00-559-4286
8430-00-559-4230	8430-00-559-4287
8430-00-559-4231	8430-00-559-4288
8430-00-559-4232	8430-00-559-4289
8430-00-559-4233	8430-00-559-4290
8430-00-559-4234	8430-00-559-4291
8430-00-559-4235	8430-00-559-4292
8430-00-559-4236	8430-00-559-4293
8430-00-559-4237	8430-00-559-4294
8430-00-559-4238	8430-00-559-4295
8430-00-559-4239	8430-00-559-4296
8430-00-559-4240	8430-00-559-4297
8430-00-559-4241	8430-00-559-4298
8430-00-559-4242	

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-27004 Filed 9-15-77;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 Sept. 5 to Sept. 9, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 31, 1977) The thirty (30) day 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).

RURAL ELECTRIFICATION ADMINISTRATION

Final

Coyotte Generating Station, 440 MW Unit, Mercer and Oliver Counties, N. Dak., September 9: Proposed is the granting of loan funds to the Minnkota Power Cooperative for the financing of a 30 percent interest in the proposed new Coyotte Station. The project consists of a 440 MW lignite-fired steam electric generating plant. A new 33 mile, 345 kV transmission line will be built to interconnect the proposed plant with the substation at the Center Plant. Cooling tower blow down and small amounts of boiler blow down will be discharged to the Missouri River. Other major adverse effects include intrusion on the landscape and minor amounts of soil disturbance. Comments made by DOT, USDA, HEW, FEA, ERDA, DOI, SOE, EPA, State agencies, and interest groups. (ELR Order No. 71117.)

SOIL CONSERVATION SERVICE

Draft

Lake Verret Watershed (2), Ascension, Assumption, and Iberville Parishes, La., September 6: Proposed is a project for watershed protection, flood prevention, and drainage in Ascension, Assumption, and Iberville Parishes, La. Approximately 168 miles of channel work with appurtenant measures, structures for water control, and measures to minimize adverse effects to fish and wildlife will be installed. There will be a loss of about 29 acres of Type 7 Wetland due to project channel rights-of-way; channel rights-of-way required for construction will occupy about 5 acres. Additional effects include the celaring of 1,200 acres of forest land, a reduction in air quality, frequent flooding, and the removal of vegetation from 348 acres. (ELR Order No. 71108.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: 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

Mississippi River, Phillips Co., Additional Facilities, Phillips County, Ark., September 6: Proposed is the dredging of a new 5.5 mile channel in two stages along the right side of the main channel of the Mississippi River, extending northeastward from the north end of the Westover revetment and parallel to the main stem levee. Dredged material from a channel 500 feet wide would be placed to create 900 acres of developable flood free fill, which would be developed as a waterfront industrial complex. Approximately 895 acres of bottomland hardwoods, 915 acres of agricultural land and 250 acres of water surface would be displaced during construction. (Memphis District.) (ELR Order No. 71102.)

Savannah Harbor Channel Widening (2), Ga., September 6: Proposed is a plan of improvement for the Savannah Harbor, Ga. Plans call for the widening of the Harbor navigation channel between the present upstream limit of the 500-foot channel between Fig Island turning basin (mile 13.3) and Kings Island turning basin (mile 18.9) from 400 to 500 feet by 38 feet depth with two feet of overdepth dredging on the northern side of the channel. Adverse effects include the elimination of approximately 27 acres of terrestrial land on the northern bank of the Savannah River, temporary increase in turbidity, and loss of plankton during dredging activities. (Savannah District.) (ELR Order No. 71099.)

Bushley Bayou, Louisiana Flood Control (2), La., September 6: Proposed is the provision of backwater flood protection to the Bushley Bayou area by means of a loop levee, gravity flood gate, internal drainage canal, and a 300-cubic-foot-per-second pumping station. Included in the project plan is acquisition and management of 925 acres of suitable wildlife lands to mitigate project-induced fishery losses. Adverse effects include the loss of 94 acres of bottom-land hardwood forest, the degradation of about 1,246 acres of productive farmland, the loss of an additional 602 acres of farmland, and possible damage to archaeological and historical sites. (Vicksburg District.) (ELR Order No. 71100.)

Final

West Contra Coast Sanitary Landfill Project, Contra Costa County, Calif., September 9: This statement involves a regulatory permit application for confirmation and approval of all existing dikes and embankments at the West Contra Costa Sanitary Landfill Project, including rehabilitation, completion and permanent maintenance of these structures and validation of the placement of all existing fill and material behind the structures. Permission to continue sanitary landfill operations is also sought. The adverse impacts of the fill project include loss of a waterfowl resting area and some modified marsh habitat, decreased aesthetics, noise and air pollution due to truck traffic, and restricted use of the landfill area. (San Francisco District.) Comments made by: DOI, EPA, USDA, HEW, DOT, State and local agencies, concerned groups, and individuals. (ELR Order No. 7114.)

Humboldt Bay Harbor Marina (Reg. Permit), Humboldt County, Calif., September 9: Proposed is the development, at Humboldt Bay Harbor, of the Eastern shore of Woodley Island and the Eureka Inner Reach Channel into a public marina with support facilities. This project would reduce the width of the open channel and decrease the flushing capability of the channel. Approximately ⅓ of the open space/wildlife habitat, including 10 acres of salt marsh, would be replaced by marina development. (San Francisco District.) (250 pages.) Comments made by: USDA, DOC, HEW, HUD, DOI, DOT, EPA, AHP, State and local agencies, and concerned interest groups. (ELR Order No. 71115.)

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

Lynwood Wastewater Treatment Facilities, Snohomish County, Wash., September 6: Proposed is the provision of secondary facilities for the existing sanitary sewerage system in the city of Lynwood, Wash., to replace the existing Lynwood treatment plant at Brown's Bay which affords only primary treatment. The Alderwood Water District will participate in the project through the installation of new gravity interceptors to extend sewer service to the Swamp Creek Basin. All of the communities serviced by the improvement are located in Snohomish County, Washington; however, the proposed Swamp Creek interceptor would discharge to the Municipality of Metropolitan Seattle (Metro) in King County for treatment. (Region X.) (ELR Order No. 71094.)

Final

Interim Heavy Duty Engine Regulations, 1979–, September 6: This statement proposes to set more stringent exhaust emission standards for new heavy duty engines, to revise exhaust gas sampling and analysis procedures, and to set a more stringent Diesel engine peak smoke emission level. To assure achievement of the desired standards, preproduction heavy duty engines will be tested to check the levels of emissions prior to certification for sale in vehicles in the United States. The standards and test procedure changes will be made optional for model year 1979 and will be required in 1980 and late model years by large volume manufacturers. Comments made by: DOD, DOI, DOT, State and local agencies, and concerned interest groups. (ELR Order No. 71109.)

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).

Sulfur Mines Salt Dome—SPR, Calcasieu County, La., September 8: Proposed is the storage of 24 million barrels of crude oil at the Sulphur Mines salt dome located in Calcasieu Parish, La. Sulphur Mines is a candidate site for the Strategic Petroleum Reserve (SPR) program currently being implemented by the Federal Energy Administration. Adverse effects include decreased air and water quality; soil erosion; and the possibility of oil spills. (ELR Order No. 71113.)

Texoma Group Salt Domes—SPR, Texas and Louisiana, September 9: Proposed are 4 candidate sites for use as part of the Strategic Petroleum Reserve program. These sites are from the Texoma group of salt domes located in the Gulf Coast region of southwestern Louisiana and southeastern Texas. The primary site for development in this group is an expansion of the West Hackberry Early Storage Reserve facility located in Cameron Parish, La. The 3 other sites are new: The Black Bayou salt dome in Cameron Parish, La.; the Vinton salt dome in Calcasieu Parish, La.; and the Big Hill salt dome in Jefferson County, Tex. One or a combination of these three sites may be developed. (ELR Order No. 71116.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202–275–4791).

Supplement

Alcan Pipeline Project, Alaska Natural Gas (S–1), Alaska, September 7: This supplement to the final EIS concerning the Alaska Natural Gas Transportation System has been prepared by the Staff of FPC pursuant to a directive by the Council on Environmental Quality and the White House Alaska Task Force. The directive results from the recent announcement of the National Energy Board of Canada that transport of Alaska natural gas through Canada to the lower 48 states should be along the route proposed by the Alcan Pipeline Company with a Taylor Highway-Klondike Highway realignment. This realignment would diverge from the proposed Alcan route at Tetlin Junction, Alaska. Impacts are discussed. (ELR Order No. 71110.)

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

Jonathan New Community—Chaska, Minn., Carver County, Minn., September 8: The proposed Federal action is the approval by the Board of Directors of the New Community Development Corporation (NCDC) of a revised Development Plan for Jonathan New Community in Chaska, Minn. Under the terms of the original Project Agreement, the Developer initiated development of a new community in accordance with an approved Development Plan. However, as the result of severe financial difficulties brought about by changing market conditions, development of Jonathan has stalled. This EIS evaluates the potential impact of six alternative development plans, including the plan as originally approved in 1970, on the environment. (ELR Order No. 71112.)

Lonergan Lake Disposition, Douglas County, Nebr., September 6: Proposed is the disposition of a 658-acre tract of land commonly referred to as Lonergan Lake, located to the north of the city of Omaha in Douglas County, Nebr. HUD committed the tract for FHA mortgage insurance for a planned unit development in 1968. The mortgagee failed to meet his financial obligations and Title was conveyed to the Secretary of the Department of HUD on September 23, 1975. HUD proposes to sell the Lonergan Lake property in accordance with the provisions of the National Housing Act as amended and HUD Handbook 4315.1, Property Disposition, Multifamily. (ELR Order No. 71098.)

Final

Newington Forest Development, Fairfax County, Va., September 8: Proposed is the residential development of a 734-acre tract of land located in Fairfax County, Va., over a 6 to 7 year period. Development will include construction of 917 townhouses, 200 garden apartments, and 791 single family units. The site will be developed in four phases. A total of 170 acres will be conveyed to Fairfax County Park Authority, and 15.6 acres will be conveyed to the County for one and one-half elementary school sites. Comments made by: EPA, USDA, COE, DOT, and State and local agencies. (ELR Order No. 71111.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Bristol, Pa.—Golf Ranch/Centennial Industrial Park, Bucks County, Pa., September 6: Proposed is the Borough of Bristol's use of $428,000 from the 1975–76 and 1976–77 Community Development Block Grant Program for the acquisition of leasehold interests in the Borough-owned property generally known as the Golf Ranch. The intent is to terminate existing long term leases in order to make the land available for the proposed development of the site as an industrial park; the site is approximately 94 acres in size. Adverse effects include the acquisition of one business, the elimination of open space, increased air, water, and noise pollution, and an increase in the storm water runoff directed toward Otter Creek. (ELR Order No. 71095.)

Final

Wilkes-Barre, Pa.—Industrial Park Urban Renewal, Luzerne County, Pa., September 6: Proposed is the acquisition and redevelopment of 132 acres of land as an industrial park within a 250-acre urban renewal area in Wilkes-Barre, Pa. Plans call for demolition of 69 structures, rehabilitation of 106 buildings, acquisition and removal of obsolete and unused rail lines, and provision of a through line for the Conrail system on existing trackage. Adverse impacts include relocation of 44 commercial and industrial uses, 49 individuals and 6 families; excesses of design noise level standards, and increases in air pollution levels. Comments made by: EPA, DOC, DOI, and State and local agencies. (ELR Order No. 71093.)

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 OUTDOOR RECREATION

Draft

Pine Creek State and National Scenic River, Lycoming and Tioga Counties, Pa., September 6: Proposed is a plan to include the 51.7 miles of Pine Creek between Ansonia and Torbert, Pa., in the National Wild and Scenic Rivers System, and be administered by the Commonwealth of Pennsylvania. The protection boundary would encompass the visual corridor and eight low-density recreation sites. Few adverse effects are anticipated, though some environmental damage to the terrain and vegetation may be expected as a result of visitor use. (ELR Order No. 71104.)

BONNEVILLE POWER ADMINISTRATION

Draft

BPA Fiscal Year 1979 Proposed Program, September 6: Proposed is the construction of fiscal year 1979 new facility additions and modifications to BPA's electric transmission system. Construction plans call for: Between 145 and 170 miles of new transmission line; three possible new substations and related structures, including power system control stations; possible equipment additions to 16 existing substations; maintenance of approximately 12,500 miles of existing transmission lines including tower structures, conductors, and access roads; and control of vegetation on approximately 19,080 acres of transmission line rights-of-way and 960 acres of substation property. Adverse effects include the removal of up to 20 acres of agricultural land. (ELR Order No. 71092.)

NATIONAL PARK SERVICE

Draft

Everglades National Park Master Plan, Dade County, Fla., September 6: Proposed

is a master plan for Everglades National Park, Fla. The plan consists of proposals to establish developments, classify park lands, acquire exclusive jurisdiction over certain park lands, change visitor-use patterns, promote interpretive facilities and cooperative planning, continue the land acquisition program, and undertake studies of project feasibilities and methods of implementation. Adverse effects are confined to the land acquisition program, which entails economic loses in Dade County, and potential invasion of park lands by culturally undesirable plant species. (ELR Order No. 71103.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202-426-4357).

FEDERAL HIGHWAY ADMINISTRATION

Draft

State Route 5 (U.S. 45), Henderson, Chester and McNairy Counties, Tenn., September 6: Proposed is the improvement of existing 2-lane State Route 5 (U.S. 45) to a 4-lane divided facility with no control of access, along with a proposed by-pass for the cities of Selmer and possibly Bethel Springs. The project would begin 1.55 miles north of the Mississippi state line and extend in a northerly direction to 0.70 mile south of Henderson. Adverse effects include the displacement of residences and businesses, air and noise pollution, and the loss of 69 to 162 acres of prime farm land. (Region 4.) (ELR Order No. 71096.)

State Highway 133, Hotchkiss to Paonia Dam, Delta and Gunnison Counties, Colo., September 6: The proposed project provides for the construction and/or improvement of approximately 26 miles of two-lane highway built to rural secondary standards. The project will improve State Highway 133 beginning about half a miles west of Hotchkiss and ending at the intersection of State Highway 133 and Kebler Pass Road about 26 miles to the east of Hotchkiss along the North Fork of the Gunnison River. Depending on the alternative selected, between 0 and 40 acres of orchard land will be removed and between 0 and 27 families will be displaced. (Region 8.) (ELR Order No. 71101.)

Kansas Highway 12, Johnson County, Johnson County, Kans., September 6: Proposed is the improvement of Kansas Highway 12 from the junction of Kansas Highways 7 and 10, approximately three miles north of the City of Olathe in Johnson County, Kans., east to approximately one-half mile west of Renner Road. The proposed project would provide a new, full access controlled, four-lane facility with interchanges at major crossroads and with seperations at railroad crossings and at roads of lesser importance. Adverse impacts include the acquisition of approximately 185 acres, the displacement of two families, increased noise and air pollution, and the loss of wooded areas and wildlife habitat. (Region 7.) (ELR Order No. 71105.)

State Route 15 (U.S. 64), Giles County, Tenn., September 6: Proposed is the construction of State Route 15 (U.S. 64), in Giles County, Tenn. The project begins at the junction of Industrial Park Road (Federal-Aid Secondary Route 6361) and State Route 15 west of Pulaski to Tarpley Cemetery east of Pulaski. State Route 15 is classified as a major arterial in Tennessee's "1990 Statewide Functional Highway Classification Plan." The project will utilize both four lane and two lane designs. Adverse impacts include the displacement of residences and businesses, increased air and noise pollution, and the siltation of streams during construction. (Region 4.) (ELR Order No. 71107.)

Final

Gould Street Connection, Bannock County, Idaho, September 6: Proposed is the upgrading of the intercity loop of U.S. 30 in Pocatello City. The improvement would include the intersection, approach sections and the Gould Street viaduct which crosses the Union Pacific Railroad Tracks. Adverse impacts include the removal of a maximum of four commercial structures, a maximum of six residential structures, and loss of shade trees. Comments made by: EPA, HUD, AHP, DOI, and State agencies. (ELR Order No. 71106.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-27018 Filed 9-15-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES-ST. LAWRENCE SEAWAY

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Winter Navigation Board to be held on 6 and 7 October 1977 in the 31st Floor Auditorium of the Anthony J. Celebreeze Federal Building at 1240 East 9th Street in Cleveland, Ohio. The meeting will be in session from 1 p.m. until approximately 3:30 p.m. on the 6th and from 9 a.m. until approximately 11:45 a.m. on the 7th. A public information meeting will be held in the same room on the 6th, starting at 7:30 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Public Laws 91-611, 93-251, and 94-587.

This Winter Navigation Board meeting is one of a continuing series of such open forums, as an integral element of the planning process in preparation of a Feasibility Report on year-round navigation on the Great Lakes-St. Lawrence Seaway Navigation Season Extension studies. Primary subjects to be discussed include an overview of considered winter navigation system proposals, system economic analyses, and system-wide environmental plan of study. Other topics to be discussed include a detailed review of the FY-78 winter navigation program, public information program, and social well being and impacts.

The meeting will be open to the public, subject to the following limitations:

(a) As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

(b) Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Mich. 48231, telephone 313-226-6770.

Dated: September 7, 1977.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, United States Army Director, Administrative Management TAGCEN.

[FR Doc.77-26980 Filed 9-15-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting:

Name: Working Group on Structures and Mechanical Behavior, Workshop on Nozzle Materials and Material Characterization (a subelement of the Chemical Propulsion Advisory Committee).

Date: October 4-6, 1977.

Place: Naval Postgraduate School, Monterey, Calif.

Time: 8:30 a.m. to 4:30 p.m., all three days.

Proposed agenda: 1 hour, background and introductions; 10 hours, technical presentations on design analysis, and mechanical properties; 5 hours, questions and discussion; 5 hours, conclusions and recommendations.

Purpose of the meeting: The purpose of the Chemical Propulsion Advisory Committee is to provide technical advice to and via the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical rocket propulsion. The scope of this working group includes the experimental measurement and theoretical prediction of the effects of the mission environment on rocket components, and assessing and improving the accuracy of this information. This Workshop will examine the analyses that influence rocket nozzle design, the material response properties needed for design, the ability to measure these properties, and will quantify tradeoffs in system performance caused by inaccuracies or inabilities in analysis and measurement.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Working Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

For further information, contact the Chemical Propulsion Information Agency, ATTN: Mr. Ronald D. Brown, Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Md. 20810. Telephone: 301-953-7100, extension 7888.

Dated: September 8, 1977.

By authority of the Secretary of the Army:

ROME D. SMYTH,
Colonel, United States Army, Director, Administrative Management TAGCEN.

[FR Doc.77-26978 Filed 9-15-77;8:45 am]

CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting:

Name: Working Group on Structures and Mechanical Behavior, Workshop on Stress Gage Interpretation (a sub element of the Chemical Propulsion Advisory Committee).
Date: October 19-20, 1977.
Place: United Technologies Chemical Systems Division, 1050 East Arques Avenue, Sunnyvale, Calif.
Time: 8:30 a.m. to 4:30 p.m., both days.
Proposed agenda: 1 hour, background and introduction; 3 hours, technical presentations; 6 hours, specific discussion questions; 4 hours, conclusions and recommendations.
Purpose of the meeting: The purpose of the Chemical Propulsion Advisory Committee is to provide technical advice to and via the Joint Army-Navy-NASA-Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical rocket propulsion. The scope of this working group includes the experimental measurement of stresses and strains in rocket components, and assessing and improving the accuracy of those measurements. This workshop will address the techniques presently available for rocket motor stress gage calibration and application, and identify specific areas where additional analyses and/or tests are required to verify these techniques.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Working Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

For further information, contact the Chemical Propulsion Information Agency, ATTN: Mr. Ronald D. Brown, Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Md. 20810. Telephone: 301-953-7100, extension 7888.

Dated: September 8, 1977.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, United States Army Director, Administrative Management TAGCEN.

[FR Doc.77-26979 Filed 9-15-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GEOPRESSURED GEOTHERMAL INDUSTRIAL WORKSHOP

Public Meeting

The U.S. Energy Research and Development Administration has awarded a contract to CK GeoEnergy Corp. of Las Vegas, Nev. to conduct a series of workshops to integrate the expertise of the oil industry and other interested industrial participants into ERDA's Geopressured Geothermal Resource Development Program. The program will run for five months, beginning in September 1977, and terminating in January 1978.

The first meeting will be held on September 28th and 29th at the Adolphus Hotel, 1321 Commerce Street, Dallas, Tex., 214-747-6411. Meeting room numbers will be posted in the hotel lobby. This meeting will be open to invitees, and to the general public on a space available basis. The workshop will be organized into several groups: An Executive Working Group; a Site Review Working Subgroup, a Drilling and Testing Working Subgroup, and an Environmental Working Subgroup.

The tentative agenda for the meeting is as follows:

SEPTEMBER 28, 1977

9 a.m. Introduction: Discussion of Purpose, Schedule, Introduction of Attendees, H. F. Coffer.
9:15 a.m. ERDA Geothermal Overview: What ERDA is Doing in Research, Louis Werner.
9:45 a.m. ERDA Geopressured Geothermal Research, Keith Westhusing.
10:15 a.m. Break.
10:30 Status of Geopressured Geothermal Research at the University of Texas, Myron Dorfman.
12 noon Lunch.
1:15 p.m. Site Selection for first Geopressured Geothermal Test Well: Methods Used to Outline areas of Interest, D. G. Debout.
2:45 p.m. Break.
3 p.m. Review of Chocolate Bayou: Logs, Cores and Production, Don Smith.
4 p.m. Organization of Subgroups: H. F. Coffer, Overview Working Group, Site Selection Working Subgroup, Drilling and Testing Working Subgroup, Environmental Working Subgroup.
5 p.m. Adjourn.

SEPTEMBER 29, 1977

The organized subgroups will meet to discuss specific topics (Agenda and room numbers will be announced).

Practical considerations may dictate alterations to the above agenda. This will be a working meeting and the Workshop Chairman and Subgroups Chairmen are empowered to conduct the general sessions and subgroup meetings in a manner that in their judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply.

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than September 20, 1977, to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on September 20, 1977, to Ms. Betty Kitterman on 202-376-4581 between 8:30 a.m. and 5 p.m. (EDT).

(c) Questions at the general session and subgroup meetings may be raised by the public only when recognized to do so by the General Session Chairman or Subgroup Chairmen.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the workshop, will be permitted before and after each day's activities and during any recess. The use of such equipment will not, however, be allowed during the general sessions or subgroup meetings.

(f) Copies of the final report prepared by CK GeoEnergy Corp. will be available at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

Dated at Washington, D.C., this 12th day of September 1977.

DONALD A. BEATTIE,
Executive Officer, Solar, Geothermal and Advanced Energy Systems.

[FR Doc.77-27005 Filed 9-15-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 793-2]

AMBIENT AIR MONITORING REFERENCE METHOD DESIGNATION

CSI Model 1600 NO_x Analyzer

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). The method is:

RFNA-0977-025, "CSI Model 1600 Oxides of Nitrogen Analyzer," operated on a 0-0.5 ppm range with a Teflon sample filter (CSI P/N M951-8023) installed on the sample inlet line, with or without any of the following options:

951-3053	Rack Mounting Kit
951-3054	Chassis Slide Kit
951-3066	Tilt Stand
951-8032	Local—Remote Ambient, Zero, Span Kit

A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, July 12, 1977, page 35879. The method is available from Columbia Scientific Industries, 11950 Jollyville Road, P.O. Box 9908, Austin, Tex. 78766.

A test analyzer representative of this method has been tested by its manufacturer, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of

these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users were promulgated on March 17, 1976 (41 FR 11255).

In general, the designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been designated as reference or equivalent methods.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

SEPTEMBER 13, 1977.

[FR Doc.77-27059 Filed 9-15-77;8:45 am]

[FRL 793-1]

AMBIENT AIR MONITORING REFERENCE METHOD AMENDMENT

Monitor Labs Model 8440E NO_2 Analyzer

At the request of the manufacturer, reference method RFNA-0677-021 (Monitor Labs Model 8440R Nitrogen Oxides Analyzer) is hereby amended by changing the model number from "8440R" to "8440E." Further information concerning this reference method may be obtained by referring to the original notice of designation published in the FEDERAL REGISTER on July 21, 1977 (Vol. 42, page 37434).

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

SEPTEMBER 13, 1977.

[FR Doc.77-27061 Filed 9-15-77;8:45 am]

[FRL 792-8]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on August 29, 1977, the Environmental Protection Agency received an application from Thermo Electron Corp., Waltham, Mass., to determine if its Model 14 D/E Chemiluminescent $NO/NO_x/NO$. Analyzer should be designated by the Administrator of the EPA as a reference or equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

TOM MURPHY,
Acting Assistant Administrator for Research and Development.

[FR Doc.77-27060 Filed 9-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21380; 21381; 21382]

ROBERT P. MILBERT

Amateur Radio Station WAOFQF; Order Designating Application for Hearing on Stated Issues

Adopted: September 2, 1977.

Released: September 13, 1977.

In the matter of Robert P. Milbert, 808 22nd Avenue, North, South St. Paul, Minn. 55075; order to show cause why the license for radio station WAOFQF in the Amateur Radio Service should not be revoked, and suspension of Amateur Extra Class Radio Operator License WAOFQF, and application for modification of Amateur Radio Station License WAOFQF.

The Chief, Safety and Special Radio Services Bureau, has under consideration the revocation of the license for Amateur radio station WAOFQF, licensed to Robert P. Milbert, as well as the suspension of his Amateur Extra Class radio operator license. Also under consideration is Milbert's application for modification of the license for Amateur radio station WAOFQF.

Robert P. Milbert is the licensee of Extra Class Amateur radio station WAOFQF, granted on December 27, 1976, for a five-year term, and prior to being granted an Extra Class license, Milbert held an Advanced Class license, which was granted on July 9, 1976.

On April 22, 1976, the Commission released First Report and Order in Docket 20092, in which Part 97 of the Commission's Rules regarding the Amateur Radio Service was amended to permit issuance of specific two letter call signs to Amateur Extra Class licensees. The issuance of such call signs was based on the length of time the applicant held an Extra Class license. Beginning January 1, 1977, specific two letter call signs were issued upon request to Extra Class licensees who had held Extra Class license prior to July 2, 1974.

It appears, That on March 20, 1977, Milbert filed the captioned application for a special two letter call sign and in the application and on a document at-

tached thereto, falsely represented that he had been an Extra Class licensee since at least the winter of 1971. The Commission's records indicate that Milbert held a General Class license until July 9, 1976, when he became an Advanced Class licensee.

It further appears, That Milbert made the false representations to the Commission in order to obtain a special two letter call sign for which he was ineligible under the Commission's Rules.

It further appears, That Milbert's conduct, described herein, in contrary to the public interest, convenience and necessity standards provided for in section 307(a) of the Communications Act of 1934, as amended, and raises substantial questions regarding his qualifications to remain a licensee of the Commission.

It further appears, That, in view of the above, the Commission would be warranted in refusing to grant an application filed by the licensee if his original application were now before it.

Accordingly, it is ordered, Pursuant to section 312 (a)(2) and (c) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's Rules, That Milbert show cause why the license for the captioned radio station should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place before an Administrative Law Judge, to be specified by a subsequent order. (See Enclosure 1.) [1]

It is further ordered, under authority contained in section 303(m)(1)(A) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's Rules, That the Extra Class Amateur Operator license of Robert P. Milbert is suspended for the remainder of the license term; and,

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, and section 1.973(b) and 0.331 of the Commission's Rules, that Milbert's application for modification of Amateur radio station license WAOFQF is designated for hearing, at a time and place to be specified by subsequent Order upon the following issues:

(1) To determine the facts and circumstances surrounding the filing of the application for modification of Amateur radio station license WAOFQF by Robert P. Milbert, dated March 20, 1977.

(2) To determine, in light of the evidence adduced pursuant to issue (1), whether Milbert made misrepresentations or less than candid representations to the Commission.

(3) To determine, in light of the facts adduced under issues (1) and (2) whether Milbert possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the application for modification of Amateur radio station license WAOFQF.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of station license (Docket No. 21380) and suspension of operator license (Docket No. 21381) is on the Bureau, pursuant to section 312(d) of the Communications Act of 1934, as amended; and the burden of introduction of evidence and the burden of proof for grant of the application (Docket No. 21382) is on the respondent, pursuant to section 309(e) of the Act.

It is further ordered, That, § 1.85 of the Commission's rules, which requires that persons whose operator licenses are suspended must, in order to have a hearing on the matter, file an application for a hearing within fifteen days, is waived; and

It is further ordered, That, § 1.221(c) of the Commission's rules, which requires that applicants whose applications are designated for hearing file a notice of appearance within 20 days in order to have a hearing on the issues, is waived; and

It is further ordered, That, in order to obtain a hearing on the suspension matter, Milbert shall, within 30 days after receipt of the suspension order, make a written request for a hearing whereupon the suspension will be held in abeyance until the conclusion of the proceedings on the suspension; that if Milbert elects not to make such a request, he shall mail his Amateur Radio Operator license to the Commission in Washington, D.C., before the expiration of thirty days. (See Enclosure 2.) [1]

It is further ordered, That, in order to obtain a hearing on his application, Milbert, in person or by attorney, shall within thirty days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in the foregoing paragraph. Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice (See Enclosure 3.) [1]

It is further ordered, pursuant to the provisions of § 1.227 of the Commission's rules, that the proceedings on the above-stated issues regarding the order to Show Cause, the Suspension and the Application are consolidated for hearing.

It is further ordered, That a copy of this order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

MICHAEL T. N. FITCH,
Acting Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-26988 Filed 9-15-77;8:45 am]

[1] The Enclosures are filed as part of the original document.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment," Technical Specs Working Group.

Notice of 8th Meeting.

Thursday, October 6, 1977—10 a.m. (All-day meeting.) Full-day Meeting October 5, 10 a.m. Same location as October 6 meeting.

Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, N.Y.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of possible meeting date.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024, phone 516-482-8200.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolutely certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meetings is available at that meeting. Those desiring more specific information may contact either the designated Chairman of the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-26989 Filed 9-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH OFFICE OF EXCEPTIONS AND APPEALS

Week of August 12 Through August 19, 1977

Notice is hereby given that during the week of August 12 through August 19, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administrator's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be September 16, 1977, or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

SEPTEMBER 10, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Aug. 12 through Aug. 19, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Aug. 12, 1977	Allied Chemical Corp., Houston, Tex. (If granted: The Allied Chemical Corp. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Benedum, Sligo, and Walnut Bend plants.)	FXE-4504—FXE-4506	Extension of relief granted in *Allied Chemical Corp.*, case Nos. FEE-3550, FEE-3553, FEE-3554 (decided Feb. 18, 1977) (unreported decision).
Do	Cabot Corp., Houston, Tex. (If granted: The Cabot Corp. would receive an extension of the exception relief granted in the FEA's Apr. 19, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Beaver, Estes, North Terrebonne, and Prentice plants.)	FXE-4507—FXE-4510	Extension of relief granted in *Cabot Corp.*, case Nos. FEE-3926 through FEE-3930 (decided Apr. 19, 1977) (unreported decision).
Do	Mustang Gas Products Co., Oklahoma City, Okla. (If granted: The Mustang Gas Products Co. would receive an extension of the exception relief granted in the FEA's July 15, 1977, decision and order which would permit it to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4511	Extension of relief granted in *Mustang Fuel Corp.*, case No. 3971 (decided July 15, 1977) (unreported decision).
Do	V-1 Oil Co., Idaho Falls, Idaho. (If granted: The FEA region X's July 25, 1977, decision and order would be rescinded and the V-1 Oil Co. would not be required to comply with a special report order issued to the firm by region X on May 3, 1977.)	FSG-0053 FES-0098	Request for special redress. Stay requested.
Aug. 15, 1977	Aminoil USA, Inc., Houston, Tex. (If granted: Aminoil USA, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Aline, Fox, Huntington Beach, Inglewood, Taloga, and Tioga plants.)	FXI-4515—FXE-4520	Extension of relief granted in *Aminoil USA, Inc.*, case Nos. FXE-3933 through FXE-3938 (decided Mar. 22, 1977) (unreported decision).
Do	Enkay Corp. (east Texas), Shreveport, La. (If granted: The Enkay Corp. would receive an extension of the exception relief granted in the FEA's June 8, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the east Texas plant.)	FXE-4521	Extension of relief granted in *Enkay Corp.*, case No. FEE-4038 (decided June 8, 1977) (unreported decision).
Do	Hunt Industries (Zoller), Dallas, Tex. (If granted: Hunt Industries would receive an extension of the exception relief granted in the FEA's Apr. 29, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Zoller plant.)	FXE-4512	Extension of relief granted in *Hunt Industries*, case No. FEE-3939 (decided Apr. 29, 1977) (unreported decision).
Do	Keener Oil Co., Tulsa, Okla. (If granted: Crude oil produced from Keener Oil Co.'s Lizzie-Orwig well No. 1 located in Seminole County, Okla., would be sold at upper tier ceiling prices.)	FEE-4513	Price exception (sec. 212.-73).
Do	Kennecott Copper Corp., Salt Lake City, Utah. (If granted: The FEA's June 30, 1977, prohibition order order would be modified and the Kennecott Copper Corp. would be permitted to burn natural gas at its Utah powerplant for startup, testing, and emergencies in the powerplant's coal handling system.)	FMR-0120	Request for modification.
Do	Kerr-McGee Corp., Oklahoma City, Okla. (If granted: The Kerr-McGee Corp. would receive an extension of the exception relief granted in the FEA's Feb. 22, and Mar. 11, 1977, decisions and orders which would permit the firm to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Beaver, Beaver Creek, Maysville, and Pampa plants.)	FXE-4522—FXE-4526	Extension of relief granted in *Kerr-McGee Corp.*, case Nos. FEE-3624 through FEE-3628 (decided Feb. 22, 1977) (unreported decision); *Kerr-McGee Corp.*, case No. FEE-3896 (decided Mar. 11, 1977) (unreported decision).
Do	Laketon Asphalt Refining, Inc., Evansville, Ind. (If granted: The FEA's July 20, 1977, decision and order would be modified and Laketon Asphalt Refining, Inc., would receive retroactive exception relief which would relieve the firm of its entitlement purchase obligations for the months of April and May 1976.)	FXA-1432	Appeal of decision and order in *Laketon Asphalt Refining, Inc.*, 6 FEA par. ..... (July 20, 1977).
Do	Mapco, Inc. (Altonah, Tyrone); Tulsa, Okla. (If granted: Mapco, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Altonah and Tyrone plants.)	FXE-4527 FXE-4528	Extension of relief granted in *Mapco, Inc.*, case Nos. FXE-3710 and FXE-3711 (decided Mar. 22, 1977) (unreported decision).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	McCulloch Gas Processing Corp., Washington, D.C. (If granted: The McCulloch Gas Processing Corp. would receive an extension of the exception relief granted in the FEA's Mar. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Belle Fourche, Gillette, and Oedekoven plants.)	FXE-4529—FXE-4531	Extension of relief granted in *McCulloch Gas Processing Corp.*, case Nos. FXE-3650, FXE-3642, FXE-3654 (decided Mar. 18, 1977) (unreported decision).
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: The Phillips Petroleum Co. would receive an extension of the exception relief granted in the FEA's Feb. 18, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following plants: Andrews, Benedum, Bradley, Canadian, Crane, Douglas, Dumas, Gray, Henderson, Hobbs, Lee, Lovington, North, Oklahoma, Spraberry, Tumstill, and Vermillion.)	FXE-4532—FXE-4548	Extension of relief granted in *Phillips Petroleum Co.*, case Nos. FEE-3479 through FEE-3502 (decided Feb. 18, 1977) (unreported decision).
Do.....	Polaris Production Corp., Midland, Tex. (If granted: The FEA's May 16, 1977, decision and order would be modified and crude oil produced from the Lea Carter lease located in Lea County, N. Mex., would be sold at upper tier ceiling prices.)	FMR-0119	Request for modification of decision and order in *Pierce and Dehlinger*, 5 FEA par. 83,160 (May 16, 1977).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana), would receive an extension of the exception relief granted in the FEA's Mar. 4, and Mar. 31, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Edgewood, Indian Basin, Levelland, Luby, North Cowden, and Old Ocean plants.)	FXE-4549—FXE-4554	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. FXE-3813 through FXE-3818 (decided Mar. 31, 1977) (unreported decision); *Standard Oil Co. (Indiana)*, case No. FXE-3660 (decided Mar. 4, 1977) (unreported decision).
Do.....	Texaco, Inc., Houston, Tex. (If granted: Crude oil produced from Texaco, Inc.'s, Sandusky (Oil Creek Sand) unit located in Grayson County, Tex., would be sold at upper tier ceiling prices.)	FEE-4514	Price exception (sec. 212.-73).
Aug. 16, 1977	Cities Service Co., Tulsa, Okla. (If granted: The Cities Service Co. would receive an extension of the exception relief granted in the FEA's Apr. 1, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bryans Mill, Chico, Corwley, Dollarhide, East Texas, Lapeyrouse, Lefors, and Maysville plants.)	FXE-4557—FXE-4564	Extension of relief granted in *Cities Service Co.*, case Nos. FXE-3838 through FXE-3845 (decided Apr. 1, 1977) (unreported decision).
Do.....	Doss, Inc., Eupora, Miss. (If granted: The FEA's July 15, 1977, decision and order would be rescinded and Doss, Inc., would be permitted to retroactively regard approximately 3,100,000 gal. of propane stored in a salt dome storage facility of the Warren Petroleum Co. as a separate inventory for the purpose of calculating the firm's maximum allowable selling prices for propane under the FEA price regulations.)	FXA-1434	Appeal of decision and order in *Doss, Inc.*, 6 FEA par. ..... (July 15, 1977).
Do.....	Great Southern Oil & Gas Co. Lafayette, La. (If granted: The FEA's Aug. 11, 1977, decision and order would be modified to change the effective date of the relief granted from Aug. 11, to Sept. 1, 1977.)	FEX-0182	Supplemental order to decision and order in *Great Southern Oil & Gas Co.*, 6 FEA par. ..... (Aug. 11, 1977).
Do.....	Texaco, Inc., Houston, Tex., (If granted: Texaco, Inc., would receive an extension of the exception relief granted in the FEA's Mar. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Garvin County, Handy, Kettleman Hills, Luby, New Hope, Roose S. Campana, Shiells Canyon South Kermit, Tijerina, and Van plants.)	FXE-4565—FXE-4574	Extension of relief granted in *Texaco, Inc.*, case Nos. FXE-3824 through FXE-3836 (decided Mar. 31, 1977) (unreported decision).
Do.....	Leo G. Wetherill, Jr., Kansas City, Mo. (If granted: Leo G. Wetherill, Jr., would be granted a stay of the FEA region VIII's Aug. 5, 1977, remedial order and would not be required to make interest payments to the Koch Oil Co. for overcharges made on sales of crude oil pending a final determination of an appeal of that order which he intends to file.)	FRS-1433	Stay request.
Do.....	Ward S. Merrick, Ardmore, Okla. (If granted: Crude oil produced from the Hattie Brown lease located in Carter County, Okla., would be sold at upper tier ceiling prices.)	FEE-4555	Price exception (sec. 212.-73).
Do.....	Domingo Saenz, Jr., Tivolli, Tex. (If granted: Domingo Saenz, Jr., would be assigned a new, lower priced supplier of motor gasoline to replace his present base period supplier, Mobil Oil Corp.)	FEE-4556	Exception to change supplier (sec. 211.9).
Do.....	Reinauer Petroleum Co., Hackensack, N.J. (If granted: The Reinauer Petroleum Co. would be permitted to import 18,000,000 gal of No. 2 heating oil on a license fee-free basis.)	FPI-0126	Exception from base fee requirements (sec. 213.-35).
Aug. 17, 1977	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: The Arizona Fuels Corp., would receive a stay of its entitlement purchase obligations for the period May through October 1977 pending a final determination of its appeal of the FEA's July 12, 1977, decision and order which it intends to file.)	FES-0103	Stay request.
Do.....	Capitol Oil Co., Inc., Baltimore, Md. (If granted: The FEA's Mar. 22, 1977, decision and order would be modified and Capitol Oil Co., Inc., would not be required to make refunds to the U.S. Coast Guard for overcharges made on sales of heating oil.)	FMR-0121	Request for modification of decision and order in *Capitol Oil Co., Inc.* 5 FEA par. 80,580 (Mar. 22, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Capitol Oil Co., Inc., Baltimore, Md. (If granted: The Capitol Oil Co., Inc., would be granted a temporary stay of the provisions of the FEA's Mar. 22, 1977, decision and order and would not be required to make refunds to the U.S. Coast Guard for overcharges made on sales of heating oil pending a final determination on its application for stay of that order.)	FRS-6100 FRT-0048	Request for temporary stay. Stay requested.
Do.....	Cities Service Co., Tulsa, Okla. (If granted: The Cities Service Co. would receive an extension of the exception relief granted in the FEA's Apr. 1, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the North Cowden, Pampa, Price Rodman, San Antonio Bay, Stonewall, Waco, and Wichita plants.)	FXE-4576— FXE-4583	Extension of relief granted in *Cities Service Co.*, case Nos. FXE-3848 through FXE-3856 (decided Apr. 1, 1977) (unreported decision).
Do.....	Continental Oil Co., Houston, Tex. (If granted: The Continental Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Emdend, Fruita, Gillis, Grand Chenier, Hennessey, Nueces River, and Okeene plants.)	FEE-4584— FEE-4590	Price exception (sec. 212.165).
Do.....	Continental Oil Co., Houston, Tex. (If granted: The Continental Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 31, 1977, decision and order which would permit it to increase its prices to reflect nonproducts cost increased in excess of $0.005/gal for natural gas liquid products produced at the Acadia, Burnell, North Pettus, Hamlin, Maljamar, North Cowden, North Okarche, Rincon, Sussex, West Seminole, and West World plants.)	FXE-4591 FXE-4600	Extension of relief granted in *Continental Oil Co.*, case Nos. FXE-3766 through FXE-3779 (decided Mar. 31, 1977) (unreported decision).
Do.....	Eason Oil Co., Oklahoma City Okla. (If granted: The Eason Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 30, 1977, decision and order which would permit Eason to sell the crude oil produced from the Weiner property located in Madison County, Miss., at upper tier ceiling prices.)	FXE-4575	Extension of relief granted in *Eason Oil Co.*, 5 FEA par. 83,116 (Mar. 30, 1977).
Do.....	Getty Oil Co., Los Angeles, Calif. (If granted: The Getty Oil Co. would receive an extension of the exception relief granted in the FEA's Mar. 18, and May 10, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bastian Bay, Houma, and Vermilion plants.)	FXE-4601— FXE-4503	Extension of relief granted in *Getty Oil Co.*, case Nos. FEE-3945, FEE-3949 (decided May 10, 1977) (unreported decision); *Getty Oil Co.*, case No. FXE-3700 (decided Mar. 18, 1977) (unreported decision).
Do.....	Gulf Oil Corp., Tulsa, Okla. (If granted: The Gulf Oil Corp. would be permitted to increase it prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Delhi, Elmwood, Enville, Fashing, Johnsons Bayou, North Port Neches, Sea Robin, Venice, Waddell, and Worsham plants.)	FEE-V4612— FEE-4818 FEE-4639 FEE-4646	Price exception (sec. 212.165).
Do.....	Gulf Oil Corp., Tulsa, Okla. (If granted: The Gulf Oil Corp., would receive an extension of the exception relief granted in the FEA's Mar. 11, and Apr. 1, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the following ntural gas plants: Adena, Bluebell, Breckenridge, Camrick, Chesterville, Como, Encinal, Eunice, Fannett, Gladewater, Headlee, Kalkaska, Krotz Springs, Lake Washington, Maysville, Mermentau Monahans, Monument, Moores Orchard, Pledger, Saunders, Shackelford, South Fullerton, Spear, Vada, and Yates.)	FXE-4620— FXE-4638 FXE-4640— FXE-4645 FXE-4647	Extensions of relief granted in *Gulf Oil Corp.*, case Nos. FXE-3857 through FXE-3881 (decided Apr. 1, 1977) (unreported decision); *Gulf Oil Corp.*, case Nos. FEE-3883 through FEE-3885 (decided Mar. 11, 1977 (unreported decision).
Do.....	Marathon Oil Co., Findlay, Ohio. (If granted: The Marathon Oil Co. would receive an extension of the exception relief granted in the FEA's May 27, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Rock River, Welder, West Forclands, and West Sidney plants.)	FXE-4648— FXE-4651	Extension of relief granted in *Marathon Oil Co.*, case Nos. FEE-3960, FEE-3963 through FEE-3965 (decided May 27, 1977) (unreported decision).
Do.....	Northern Natural Gas Co., Omaha, Nebr. (If granted: The Northern Natural Gas Co. would receive an extension of the exception relief granted in the FEA's Mar. 22, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at 2 gas processing plants located in Martin County, Tex.)	FXE-4605	Extension of relief granted in *Northern Natural Gas Co.*, case No. FXE-3734 (decided Mar. 22, 1977) (unreported decision).
Do.....	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana), would receive an extension of the exception relief granted in the FEA's Mar. 4, and Mar. 31, 1977, decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Burnell, South Gillock, South Manchester, South Pecan, and Thibodaux plants.)	FXE-4606— FXE-4610	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. FEE-3662, FEE-3663 (decided Mar. 4, 1977) (unreported decision); *Standard Oil Co. (Indiana)*, case Nos. FXE-3812, FXE-3821, FXE-3822 (decided Mar. 31, 1977) (unreported decision).
Do.....	Tonkawa Refining Co., Oklahoma City, Okla. (If granted: The Tonkawa Refining Co. would be granted retroactive exception relief which would permit the firm to sell refined products at prices in excess of the maximum allowable prices calculated pursuant to the FEA mandatory price regulations.)	FEE-4604	Price exception (secs. 212.82 and 212.83).

Date	Name and location of applicant	Case No.	Type of submission
Do.	Vallery Corp., Sterling, Colo. (If granted: The Vallery Corp. would receive an extension of the exception relief granted in the FEA's June 17, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products.)	FXE-4611	Extension of relief granted in *Vallery Corp.*, case No. FEE-4273 (decided June 17, 1977) (unreported decision).
Aug. 18, 1977	Pennsylvania Petroleum Co., Bridgeport, Conn. (If granted: The FEA's July 11, 1977, decision and order would be modified to grant the Pennsylvania Petroleum Corp. additional retroactive exception relief for the period Nov. 2, through Dec. 31, 1973, which would permit the firm to retain $9,119.15 in revenues which it obtained during that period from charging prices from motor gasoline which exceeded the maximum price levels permitted by the provisions of 6 CFR 150.359.)	FXA-1435	Appeal of decision and order in *Pennsylvania Petroleum Corp.*, 6 FEA par. ..... (July 11, 1977).
Aug. 19, 1977	Chevron U.S.A., Inc., Washington, D.C. (If granted: Chevron U.S.A., Inc., would receive an exception to 10 CFR 212.83(c)(2)(iii)(E) which would permit the firm to adjust its May 1973 nonproduct costs in the computation of its maximum allowable prices for covered products other than crude oil.)	FEE-4652	Price exception (sec. 212.-83(c)(2)(iii)(E)).
Do.	T. Mayfield d.b.a. Mayfield Engineering, Tulsa, Okla. (If granted: The FEA's July 7, 1977, remedial order would be rescinded and T. Mayfield would not be required to refund overcharges made on sales of crude oil produced from the Harjo, Harlow, Smith B, and Barnsdall leases.)	FRA-1436	Appeal of FEA region VI's remedial order issued July 7, 1977.

[FR Doc.77-26789 Filed 9-15-77;8:45 am]

CONSUMERS POWER CO.

Request for Interpretation

Notice is hereby given that the Federal Energy Administration is analyzing a request for interpretation, pursuant to 10 CFR Part 205, Subpart F, for Consumers Power Co. (Consumers). That requests for interpretation poses the issue of whether Consumers may participate in FEA's domestic crude oil allocation program (the "entitlements program"), 10 CFR 211.67, based on the fact that crude oil feedstocks are refined at the feedstock preparation unit of the Consumers synthetic natural gas (SNG) plant located in Marysville, Mich. A determination of eligibility could have a substantial impact on the entitlements program. Therefore, FEA wishes to solicit coments from any party who believes it may be affected by an FEA decision on this request for interpretation.

A brief summary of the Consumers' request for interpretation follows:

Consumers is a public utility regulated by the Michigan Public Utilities Commission which is engaged in the generation, purchase, distribution and sale of electricity. Conumers also purchases, produces, manufactures, stores, distributes and sells natural gas.

Consumers' SNG plant initially began commercial production in September 1973 and operated at full production in April 1974. Consumers submitted an application to FEA's Office of Regulatory Programs requesting inclusion in the entitlements program on February 24, 1976. The application was deemed to be a request for interpretation by FEA's Office of Exception and Appeals on February 2, 1977 (5 FEA ¶ 80,508).

The Consumers' SNG plant uses approximately 50,000 barrels per day of feedstock. A portion of the feedstocks are processed through a separate and identifiable feedstock preparation unit which was constructed by Consumers in conjunction with the construction of the SNG facility. This portion of the feedstock stream, which is approximately seventy (70) percent of the total, consists of plant condensates and lease condensates (pentanes and heavier hydrocarbons). Ninety-eight (98) percent of the plant condensates are imported from Canada pursuant to long-term contracts with Dome Petroleum Limited and Amoco Oil Co. The amounts of lease condensate included in the feedstock stream are purchased from a domestic corporation located in Michigan.

The products of the feedstock preparation unit are a commercial grade liquefied petroleum gas ("LPG") consisting of propane and butane, gasoline, and residual fuel oil. The products are used internally within the SNG plant as fuel and as feedstocks in the gasification units of the plant, and a portion of them is sold back to one of Consumers' feedstock suppliers.

Consumers has requested inclusion in the FEA entitlements program on the basis that the Marysville SNG plant qualifies as a "refinery" as that term is defined in 10 CFR 211.62.

Consumers contends that: (1) The Marysville SNG plant processes lease condensate (which is expressly included in the definition of crude oil contained in 10 CFR 211.51); and (2) although the product eventually produced at the Marysville SNG plant is synthetic natural gas, the feedstock preparation unit of the plant manufactures refined peroleum products. Therefore, reasons Consumers, the SNG plant qualifies as a "refinery" under FEA's Regulations. Since the plant is a "refinery", Consumers contends the firm is thus a "refiner" under the applicable regulations and eligible for inclusion in the entitlements program.

Copies of the documents submitted by Consumers in this matter are available for public review in the FEA Freedom of Information Reading Room, 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit their views and comments concerning this matter to Executive Communications, Box PL, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. All submissions should be made in five copies and should be received no later than September 28, 1977. Comments should be identified on the outside envelope and on the document with the designation "Comments on Consumers Request for Interpretation."

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). The FEA reserves the right to determine the confidential status of the information or data and to treat such information according to its determination.

It is suggested that those desiring additional information contact Ms. Kathleen C. Williams, Interpretations Division, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 or call 202-566-2454.

Issued in Washington, D.C., September 12, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-26967 Filed 9-15-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of meetings of Subcommittees A and C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) to be held in New York during the period September 19-22, 1977.

The first meeting of Subcommittee A of the Industry Advisory Board will be held on September 19, 20, and 22, 1977, at the offices of the Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. on September 19. The agenda is as follows:

1. Opening remarks.
2. General discussion of the design of the Second IEA Allocation Systems Test (AST-2) proposed for Spring 1978 and review of first draft of AST-2 Test Guide.
3. Review critical path of actions required prior to AST-2.
4. Discussion of request by Secretariat that Subcommittee A consider developing a standardized set of crude yields and qualities for all crudes likely to be involved in the Test.
5. Next meeting date/location.

A second meeting of Subcommittee A will be held on September 21, 1977, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. The agenda is as follows:

1. Opening remarks.
2. Status report on planned October/November, 1977, Emergency Data Test, including feedback from Reporting Company meeting on September 8 and Secretariat meeting for participating countries on September 9.

3. Report of Design Group on status of Second IEA Allocation Systems Test (AST-2) and AST-2 Test Guide.
4. Discussion of request by Secretariat that Subcommittee A consider developing a standardized set of crude yields and qualities for all crudes likely to be involved in the Test.
5. Review critical path of actions required prior to AST-2.
6. Discussion of progress report by Chairman of the Standing Group on Emergency Questions (SEQ) working group on demand restraint.
7. Review IEA Secretariat proposed revisions to Emergency Management Manual.
8. Report by Secretariat on status of Industry Supply Advisory Group (ISAG) data formats.
9. Future work program.
10. Next meeting date and location.

A meeting of Subcommittee C of the Industry Advisory Board will be held on September 20, 1977, at the offices of Mobil Oil Corp., 150 East 42d Street, New York, N.Y., beginning at 1:30 p.m.

The agenda for the meeting is as follows:

1. Opening remarks by Chairman including report on July 12 SEQ meeting as it relates to work of Subcommittee C.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Settlement of disputes.
5. Future work of Subcommittee C.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. Unanticipated circumstances have required the notice period as contained in section 209.32(b) of FEA regulations to be shortened.

Issued in Washington, D.C., September 12, 1977.

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

[FR Doc.77-26968 Filed 9-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, on or before October 6, 1977. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Agreement filed by:

A. H. Eber, Secretary, Pacific Coast Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, Calif. 94111.

Agreement No. 50DR-4 has been filed with the Commission for approval under section 14b of the Shipping Act, 1916, by the member lines of the Pacific Coast Australasian Tariff Bureau (PCATB). The purpose of the amendment is to change the application of PCATB's Tariff FMC 9, Item 1, Mixed Commodities, from a tariff rate to a contract/non contract rate, thereby including Item 1 within the scope of the conference's dual rate contract system.

Dated: September 13, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-27009 Filed 9-15-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CI76-1498, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES [1]

SEPTEMBER 8, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and Date Filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure Base
CI62-1408..... D 8-5-77	Aylward Drilling Co., A. J. Oil Co., and Andover Oil Co., 909 First National Bank Bldg., Wichita, Kans. 67202.	Cities Service Gas Co., Barkley No. 2 Gas Well, Stumph-Smith Field, Barber County, Kans.	(1)	.....
CI65-438..... D 7-25-77	Mobile Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Certain acreage in the Northwest Quinlan Field, Woodward County, Okla.	(1)	.....
CI66-202..... C 7-25-77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Roll "B" No. 1 Well located in Section 27-34S-43W, Interstate Red Cave Field County, Kans.	(7)	14.65
CI72-440..... C 8-22-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Certain acreage in Weld, Arapahoe, and Adams Counties, Colo.	(3)	15.025
CI73-46..... C 8-15-77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Certain acreage in the Pictured Cliffs Formation, San Juan and Rio Arriba Counties, N.Mex.	(3)	15.025
CI77-110..... C 8-16-77	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Hatzog Draw Field, Campell County, Wyo.	[2]158.3515	14.65
CI77-588..... F 6-10-77	Petroleum, Inc. (Operator) (Successor to Diamond Shamrock Corp.	Northern Natural Gas Co., Jarvis Unit and Brown "A", Hemphill County, Tex.	(3 6)	14.65
CI77-573..... F 6-15-77	Gulf Oil Corp. (Successor to Dane G. Hansen Trust, Stelbar Oil Corp., Sahara Coal Co., Inc. Cecil M. Burton and C. W. Sebits) P.O. Box 2100, Houston, Tex. 77001.	Kansas-Nebraska Natural Gas Co., Inc., Granite Wash and Southest Canadian Douglas Fields, Hemphill County, Tex.	(3)	14.65
CI77-594..... A 6-23-77	Cities Service Co. (Successor to Cities Service Oil Co.), P.O. Box 300, Tulsa, Okla. 74102.	Transco Gas Supply Co., Block A-79, Brazos area, offshore Texas.	(3)	15.025
CI77-608..... F 6-27-77	Anadarko Production Co., P.O. Box 1330 Houston, Tex., 77001.	Natural Gas Pipeline Co., of America, Camrick Field of Texas County, Okla.	(3)	14.65
CI77-614..... A 7-1-77	Beleo Petroleum Corp., et. al., 2500 First City National Bank Bldg., Houston, Tex. 77002.	Mid Louisiana, OPERC 4 Sand, Reservoir A, Hester Field, St. James Parish, La.	(3)	15.025
CI77-615..... A 7-1-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Webb No. 1-187 Well, Canadian-Upper Morrow Field, Hemphill County, Tex.	(3)	14.73
CI77-617..... F 7-5-77	Atlantic Richfield Co. (successor to A. R. Dillard, Jr., Trust), P.O. Box 2819, Dallas, Tex. 75221.	Northern Natural Gas Co., Allen Estate "B" Lease, West Perryton Field, Sec. 17, Blk. 12, H & GN RR Survey, Ochiltree County, Tex.	(3 6)	14.65
CI77-618..... A 7-5-77	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Robert G. Hall, Amorita-Cherokee Field, Alfalfa County, Okla.	(3)	14.65
CI77-619..... A 7-5-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	El Paso Natural Gas Co., Burton Flat Field, Eddy County, N. Mex.	[2]$1.46	14.73
CI77-620..... A 7-5-77	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Southern Natural Gas Co., certain acreage in Block 288, Main Pass area, offshore, Louisiana.	(3)	15.025
CI77-621..... A 7-5-77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., West Cameron Block 265 area, offshore, Louisiana.	(3)	15.025
CI77-622..... F 7-5-77	Exxon Corp. (successor to Samedan Oil Corp. and Marshall and Winston, Inc.), P. O.Box 2180, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad Field, Eddy County, N. Mex.	(3)	14.73
CI77-623..... A 7-5-77	Monsanto Co. (Operator), 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	El Paso Natural Gas Co., Morrow Formation underlying the Coquina Federal No. 1 and Wagner Federal No. 1 Wells located within Eddy County, N. Mex.	(3)	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and Date Filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure Base
C177-624..... B 7-5-77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Champlin Petroleum Co., Edmond Field, Logan County, Okla.	(3)	.....
C177-625..... A 7-7-77	Southland Royalty Co., 1600 First National Bldg., Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon Sandstone Formation from properties located in Secs. 15, 22, and 27, Township 44 North, Range 77 West, Johnson County, Wyo.	(3)	14.65
C177-626..... B 6-27-77	Maralo, Inc., P.O. Box 832, Midland, Tex. 79701.	Tennessee Gas Pipeline Co., Nada Field, Colorado County, Tex.	(1)	.....
C177-627..... A 7-1-77	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Sand Dunes Field, Eddy County, N. Mex.	(3)	14.65
C177-628..... B 7-7-77	Hunt Oil Co., 2900 First National Bank Bldg., Dallas, Tex. 75202.	Trunkline Gas Co., South Timbalier, Blocks 179 and 187, offshore, Louisiana.	(1)	.....
C177-629..... A 7-8-77	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Northern Natural Gas Co., Drinkard Field, Lea County, N. Mex.	(3)	15.025
C177-630..... B 7-5-77	Placid Oil Co., 1600 First National Bank Bldg., Houston, Tex. 75202.	South Timbalier, Blocks 179 and 187, offshore, Louisiana.	(1)	.....
C177-631..... A 7-5-77	Aztec Oil & Gas Co. (Operator), 1600 First National Bldg., Fort Worth, Tex. 76102.	El Paso Natural Gas Co., Pictured Cliffs Formation from the Johns No. 1-A Well located in the NW/4 of Section 19 Township 32 North, Range 11 West, San Juan County, N. Mex.	(3)	14.73
C177-632..... A 7-11-77	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Southeast Niles Field, Canadian County, Okla.	(3)	14.73
C177-633..... A 7-11-77	Amerada Hess Corp., 1200 Milam, 6th floor, Houston, Tex. 77002.	Northern Natural Gas Co., Eunice Field (Central Drinkard Unit), Lea County, N. Mex.	(3)	15.025
C177-634..... F 7-11-77	Cities Service Co. (successor to Cities Service Oil Co.) P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Wagner-Federal No. 2 Well, S/2 of Section 29-20s-27E, Eddy County, N. Mex.	(3)	15.025
C177-638..... A 7-11-77	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Berryman-Richfield Unit, Berryman-Richfield Field, Morton County, Kans.	(3)	14.65
C177-725..... (G-19976). B 8-11-77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Southern Natural Gas Co., Mystic Bayou Field, St. Martin Parish, La.	(3)	.....
C177-716..... A 8-17-77	Felmont Oil Corp., 6 East 43d St., New York, N.Y. 10017.	El Paso Natural Gas Co., South Blanco Pictured Cliffs Field, Rio Arriba County, N. Mex.	[4] $1.716	14.73

[1] Depleted.
[2] By Oil and Gas Lease dated Jan. 28, 1977, Mobil leased to Ferguson Oil and Gas Compnay, Inc. certain acreage on which they drilled the Ferguson-Cadwell No. 1 and completed it as a gas well on Feb. 7, 1977. The acreage leased is a limited commitment from the surface of the ground down to the stratigraphic equivalent of 200 ft below the top of the Chester Formation.
[3] Applicant proposes to collect the applicable national rate as prescribed in Opinion No. 770-A, subject to conditions contained herein.
[4] Facilities for which a certificae of public convenience and necessity is required is Applicant's 3.125 pct and Pioneer Production Corporation's 1.5625 pct. interest in the Jarvis Unit, and Applicant's 10 pct. interest in the Brown "A", all in Hemphill County, Texas. The remaining interests in both are owned by a small producer, and no filing is necessary for that interest.
[5] Applicant makes this filing to obtain authority to continue the sales formerly covered by the Graham-Michaelis Drilling Company under its FPC Gas Rate Schedule No. 29, in Docket No. CS71-178.
[6] Applicant is willing to accept a permanent certificate in accordance with Opinion No. 770, as amended.
[7] Applicant is filing to continue in part service previously rendered by A. R. Dillard, Jr., Trust.
[8] Applicant proposes to continue the sale of gas from the Carlsbad Field, Eddy County, New Mexico to El Paso under a contract dated June 13, 1977.
[9] Production ceased, and lease abandoned.
[10] Lease terminated.

[FR Doc.77-26804 Filed 9-15-77;8:45 am]

[Docket No. CS77-772, et al.]

APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES[1]

SEPTEMBER 8, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 30, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

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 held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-772	Aug. 25, 1977	Binion H. Carr., d.b.a. General Operating Co., box 877, Wichita Falls, Tex. 76307.
CS77-773	.....do.....	Western Oil Refining Co., 915 Pine Ave., Kemmerer, Wyo. 83101.
CS77-774	.....do.....	Peter M. Mark, general partner, Mark Oil & Gas Ltd., (1977 program), suite 1030, Charleston National Plaza, Charleston, W. Va. 25301.
CS77-775	.....do.....	Marjorie Y. Crosby, trustee for the Christine Elizabeth Crosby trust No. 2, P.O. Box 1032, Menlo Park, Calif. 94025.
CS77-776	.....do.....	Marjorie Y. Crosby, individually, P.O. Box 1032, Menlo Park, Calif. 94025.
CS77-777	.....do.....	Marjorie Y. Crosby, trustee for the Tamara Eillen Crosby trust No. 2, P.O. Box 1032, Menlo Park, Calif. 94025.
CS77-778	.....do.....	Crosby-Mississippi Resources, Ltd., 3702 Hardy St., Hattiesburg, Miss. 39401.
CS77-779	.....do.....	Lynn Crosby Gammill, trustee for the Lucius Olen Crosby, 3702 Hardy St., Hattiesburg, Miss. 39401.
CS77-780	.....do.....	Lynn Crosby Gammill, trustee for the Stewart Gammill, IV trust No. 2, 3702 Hardy St., Hattiesburg, Miss. 39401.
CS77-781	.....do.....	Lynn Crosby Gammill, individually, 3702 Hardy St., Hattiesburg, Miss. 39401.
CS77-782	.....do.....	Lynn Crosby Gammill, trustee for the Jennifer Lynn Gammill trust No. 2, 3702 Hardy St., Hattiesburg, Miss. 39402.
CS77-783	Aug. 26, 1977	Houston Petroleum Co., 3121 Buffalo Speedway, suite 402, Houston, Tex. 77098.
CS77-784	Aug. 29, 1977	L. Robinson Lease, box 431, Spencer, W. Va. 25276.
CS77-785	.....do.....	Whitehead Production Co., Inc., 905 University Dr., Fort Worth, Tex. 76107.
CS77-786	.....do.....	Hinton Production Co., P.O. Box 1237, Mt. Pleasant, Tex. 75455.
CS77-787	.....do.....	Mildred C. Lane, P.O. Box 431, Spencer, W. Va. 25276.
CS77-788	.....do.....	Bruce Clader, Inc., 1200 Hartford Bldg., Dallas, Tex. 75201.

Applications received during the week ending Sept. 9, 1977

Name of applicant	Location of enterprise	Principal product or activity
Marshall Manor, Inc	Machias, Maine	Intermediate nursing care for elderly.
American Press, Inc	Gordonsville, Va	Offset printing.
W. L. Smith Co	Panama City, Fla	Restaurant and retail food sales.
Delta Seed & Rice Inc	Arcola, Miss	Processing, storage, and sale of grain.
Davis Casket Co., Inc	Americus, Ga	Manufacture and marketing steel caskets.
Kaintuck Territory, Inc	Benton, Ky	Tourist facility.
Rochel Construction Co., Inc	Zimmerman, Minn	Installing utilities in housing development.
Aspen Fibre Corp	Marcell, Minn	Manufacture of pellets for feed and fuel.
Panel Processing, Inc	Coldwater, Mich	Manufacture of display panels.
Joplin Hiway, Inc., and Subsidairy Monkem Co., Inc.	Joplin, Mo	Soliciting and controlling traffic for motor carrier operations.
Rocky Mountain Products	Larkspur, Colo	Manufacture of communications equipment.
Yonemura Nursery, Inc	Carpinteria, Calif	Nursery operation.

[FR Doc.77-26805 Filed 9-15-77;8:45 am]

[Docket No. RP77-110]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

SEPTEMBER 12, 1977.

Take notice that on August 24, 1977, Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee), P.O. Box 918, Florence, Ala. 35630, tendered for filing as part of its FPC gas Tariff, Third Revised Volume No. 1 the following tariff sheets:

First Revised Sheet No. 33.
First Revised Sheet No. 34.
Original Sheet No. 34-A.
Original Sheet No. 34-B.

The above-designated tariff sheets are to become effective on September 23, 1977.

This filing constitutes a refiling of the tariff sheets submitted July 19, 1977, which earlier filing was rejected by the Commission's Order issued in this matter on August 18, 1977. Such order provided that the July 19, 1977, filing should be rejected because the "Commission's PGA regulations simply do not provide for the inclusion of transportation charges as part of a pipeline's cost of purchased gas" but also provided that the rejection was "without prejudice to the refiling without the inclusion of transportation charges."

Alabama-Tennessee states, as it did in the July 19, 1977, filing, that the sole purchase of the refiled tariff sheets is to enable Alabama-Tennessee to contract for new supplemental supplies of natural gas, in addition to the supplies purchased from its current sole supplier, Tennessee Gas Pipeline Co., and to enable it to recoup from its customers the cost of the new supplemental supplies.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

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 §§ 1.8 and 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. 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.77-27100 Filed 9-14-77;1:05 pm]

[Docket No. RP72-134 (PGA77-10)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

SEPTEMBER 12, 1977.

Take notice that Eastern Shore Natural Gas Co. (Eastern Shore), on August 23, 1977, tendered for filing the following revised tariff sheets:

Substitute Forty-Fourth Revised Sheet No. 3A Superseding Forty-Fourth Revised Sheet No. 3A.
Substitute Forty-Fourth PGA-1.

Eastern Shore states that Substitute Forty-Fourth Revised Sheet No. 3A tracks increases in the rates to be effective September 1, 1977, filed by Eastern Shore's sole supplier, Transcontinental Gas Pipe Line Corp. (Transco) for sales of natural gas under Transco's FPC Gas Tariff, Second Revised Volume No. 1. Eastern Shore further states that Substitute Forty-Fourth PGA-1 shows the current and cumulative changes to its base tariff rate. The revised rates provide for an increase in the commodity component of Eastern Shore's CD-1, CD-E, G-1, E-1, I-1, and PS-1 rate schedules of 0.052 cents per Mcf, according to Eastern Shore.

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commision's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Stptember 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. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27099 Filed 9-14-77;1:05 pm]

[Docket No. RP72-155]

EL PASO NATURAL GAS CO.

Tariff Sheets Tender

SEPTEMBER 12, 1977.

Take notice that on August 18, 1977, El Paso Natural Gas Co. ("El Paso") tendered for filing the following revised tariff sheets to its FPC Gas Tariff, Original Volume No. 2A:

First Revised Sheet No. 1-E
First Revised Sheet No. 1-F
First Revised Sheet No. 1-G
First Revised Sheet No. 1-H
Second Revised Sheet No. 1-I

El Paso states that on March 28, 1977, it tendered for filing certain revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1 which were designed to modify El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in said tariff, in accordance with El Paso's Stipulation and Agreement dated and filed August 6, 1976, approved and adopted by Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint, issued February 16, 1977, at Docket Nos. RP72-150, et al. By order issued April 15, 1977, the Commission accepted said tariff tender and made the related tariff sheets effective as of April 1, 1977.

El Paso further states that the modified PGAC provision which was the subject of the aforementioned March 28, 1977, tariff tender applies to all rate schedules contained in El Paso's Original Volume No. 1 tariff, as well as certain special rate schedules contained in its Third Revised Volume No. 2 and Original Volume No. 2A tariffs, wherein the rates applicable thereunder are "keyed" to a designated rate schedule contained in said Volume No. 1 tariff. Such PGAC provision, as set forth in the subject Stipulation and Agreement does not, however, address itself to certain other special rate schedules contained in El Paso's Volume No. 2A tariff, which rate schedules contain rates that are based upon the purchase cost of clean, high pressure, pipeline quality gas, subject to adjustment under the provisions of the Purchased Gas Cost Adjustment Provision—Clean High Pressure Gas ("PGAC-CHPG") contained in said Volume No. 2A.[1]

El Paso states that it is a purpose of this tender to effectuate such modifica-

[1] The currently effective special rate schedules which are subject to El Paso's PGAC-CHPG are Rate Schedules PS-3, PS-6, PS-7 PS-10, and PS-32.

tions in the PGAC–CHPG. The required PGAC–CHPG modifications contained in the tendered revised tariff sheets will: (i) Permit the inclusion of carrying charges on monthly balances in Account 191, Unrecovered Purchased Gas Costs; (ii) change the surcharge adjustment for unrecovered purchased gas costs to be based upon estimated volumes of gas to be sold during the six (6) month period the surcharge will be in effect; and (iii) provide a means of crediting the applicable portion of producer-supplier refunds which are received by El Paso to Account 191.

Additionally, Section 1, Applicability, and paragraph (b) of Section 6, Determination of Gas Cost Adjustment, of said PGAC–CHPG require revision to update such provisions in order to reflect current data.

El Paso has requested that the Commission accept the tendered tariff sheets for filing and permit them to become effective thirty (30) days following the date filed.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 16, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-27103 Filed 9-14-77;1:05 pm]

[Docket No. RP73-23 (PGA77-6a)]

LAWRENCEBURG GAS TRANSMISSION CORP.

Filing of Revised Gas Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) tendered for filing two (2) revised gas tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on August 15, 1977, proposed to become effective August 1, 1977, and identified as follows:

Substitute Ninth Revised Sheet No. 4, and
Substitute Eighth Revised Sheet No. 18.

Lawrenceburg states that these revised gas tariff sheets are being filed under its purchased gas adjustment provision and in substitution for those tariff sheets previously approved by Commission Order issued July 28, 1977, effective August 1, 1977. Lawrenceburg states that this revision is necessary because of a subsequent change in the Texas Gas Transmission Corp. rates tracked in its original filing and resulting from the settlement of certain reserved issues in Texas Gas' rate proceeding at Docket No. RP74-25.

The proposed changes contained therein would decrease revenues from jurisdictional sales by $85,219 as compared to revenues at Lawrenceburg's previous rates which became effective February 1, 1977, based on the 12 months ending May 31, 1977.

Lawrenceburg requests an effective date of August 1, 1977, on its proposed tariff sheets and requests that the Commission waive its notice requirements, as required, in order that its proposed tariff sheets can become effective on that date.

Lawrenceburg states that copies of this filing have been mailed to its two wholesale customers and to the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before 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. 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.77-27101 Filed 9-14-77;1:04 pm]

[Docket No. RP76-50]

MICHIGAN WISCONSIN PIPE LINE CO.

Filing of Proposed Tariff Change

SEPTEMBER 12, 1977.

Take notice that on August 18, 1977, Michigan Wisconsin Pipe Line Co. tendered for filing First Revised Sheet No. 26D of Second Revised Volume No. 1 of its FPC Gas Tariff proposed to become effective September 20, 1977.

Michigan Wisconsin states that the sole purpose of filing the proposed revised tariff sheet is to amend Section 9 of the General Terms and Conditions of its FPC Gas Tariff to enable Michigan Wisconsin to recoup demand charge credits on a current rather than deferred basis. Michigan Wisconsin further states that no changes in its rates are proposed in this filing.

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 §§ 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. 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.77-27104 Filed 9-14-77;1:05 pm]

[Docket No. RP77-123]

UNITED GAS PIPE LINE CO.

Filing of Original and Revised Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, United Gas Pipe Line Co. (United) tendered for filing as a part of its FPC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 74-G.
Original Sheet No. 74-H.
Original Sheet No. 74-I.

These tariff sheets contain the provision whereby United's rates may be adjusted periodically to recover increased cost associated with Research, Development, and Demonstration cost. United's Research, Development, and Demonstration recovery provisions are being filed in accordance with the requirements of § 154.38(d)(5) of the Federal Code of Regulations as amended by Order No. 566 at Docket No. RM76-17.

United requests that the enclosed tariff sheets be accepted for filing and made effective September 17, 1977.

The Company states that copies of these tariff sheets have been mailed to United's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protsets 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. 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.77-27098 Filed 9-14-77;10:04 pm]

[Docket No. RP72-133]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheets

SEPTEMBER 12, 1977.

Take notice that on August 17, 1977, United Gas Pipe Line Company (United) filed with the Federal Power Commission (Commission) as a part of its FPC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 74-B.
Third Revised Sheet No. 74-C.
Second Revised Sheet No. 74-D.
Second Revised Sheet No. 74-E.
Second Revised Sheet No. 74-F.

These revised tariff sheets are being filed to correct certain deficiences in United's existing Purchased Gas Adjustment Clause in order to permit United to recover the proper gas cost from its jurisdictional customers each month. United requests that the attached revised sheets be accepted for filing and permitted to become effective concurrently with the tariff revisions contained in United's general rate increase filed at Docket No. RP77-107, but not later than January 1, 1977.

A copy of the letter of transmittal and revised tariff sheets are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before 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. 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.77-27102 Filed 9-14-77;1:04 pm]

FEDERAL RESERVE SYSTEM

COLORADO FUNDING CO.

Determination Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to § 4 (a) (2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privilege of Colorado Funding Company, Denver, Colorado, affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (40 FR 57398). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Colorado Funding Company, Denver, Colorado ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of approximately 97.5 per cent of the voting shares of The Colorado State Bank of Denver, Colorado ("Bank") (assets of $66.5 million as of December 31, 1973). Bank, control of which was acquired by Registrant in November 1964, had total deposits of approximately 67.1 million as of December 31, 1976, representing 1.3 percent of the aggregate deposits in commercial banks in the Denver banking market,[1] and is the eleventh largest banking organization in that market. Bank's managerial and financial rseources, and its future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

On June 1, 1967, Registrant purchased Brancucci Produce Company, and has operated it as a subsidiary since that time. Brancucci Produce Company is based in Adams City, Colorado, a suburb of Denver, and is engaged in the wholesale processing and distribution of produce. In 1976 net income from this operation was $62,000 representing 6.9 per cent of Registrant's income for that year. Since Registrant has been engaged in this activity continuously since prior to June 30, 1968, it appears to be eligible for grandfather privileges.

[1] The Denver banking market is approximated by Denver, Adams, Arapahoe and Jefferson Counties, Colorado, and the Broomfield portion of Boulder County, Colo.

On June 30, 1968, Registrant was engaged directly in the sale of credit life, health and accident insurance in connection with installment loans made by Bank. However, since Registrant discontinued its insurance activities in December 1975, such activities are not eligible for grandfather privileges because Registrant has not been engaged in them continuously since June 30, 1968.

Registrant owns indirectly through Bank 100 per cent of Colorado State Bank Corporation, a limited partner in a partnership owning 50 per cent of the building occupied by Bank. Since such activities appear to be exempt from the prohibitions of section 4 of the Act by virtue of section 4(c)(1)(A) of the Act, Registrant need not rely on § 4(a)(2) of the Act for authority to continue such activities.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the grandfathered activity of Registrant and its subsidiary do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

There appears to be no reason to require Registrant to terminate its interest in its grandfathered subsidiary. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's grandfathered activities or a change in location thereof (significantly different from that described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of § 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other adverse effects designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, or acquisition of any interest in a going concern, to which the Registrant or its nonbank subsidiary is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather ben-

efits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking 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 evasions thereof.

By determination of the Board of Governors,[2] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26950 Filed 9-15-77;8:45 am]

DETROITBANK CORP.

Acquisition of Bank

Detroitbank Corp., Detroit, Mich., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Detroit Bank—Sterling, National Association, Sterling, Mich. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 27, 1977.

Board of Governors of the Federal Reserve System, September 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26951 Filed 9-15-77;8:45 am]

FINANCIAL SERVICES CORPORATION OF THE MIDWEST

Order Approving Acquisition of a Consumer Finance Co.

Financial Services Corp. of the Midwest, Rock Island, Ill., 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 and § 225.4(b)(2) of the Board's Regulation Y to acquire, through a recently established subsidiary, Federal Discount Co., all of the voting shares of Federal Discount Corp., Dubuque, Iowa ("FDC"), a company that engages, through seven subsidiary companies, in the activities of making consumer installment loans, purchasing consumer installment sales finance contracts, and acting as agent for the sale of credit life and credit accident and health insurance related to extensions of credit by the subsidiaries of FDC. Such activities have been determined by the Board to be closely related to banking (12 C.F.R. § 225.4(a)(1) and (9)(ii)).

Notice of the application, according opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 Fed. Reg. 34553 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in § 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)).

Applicant controls one bank, the ninety-first largest commercial bank in Illinois, with deposits of approximately $88 million, representing approximately 0.14 percent of total deposits in commercial banks in the State.[1] Applicant also controls FSC Money Shops, a consumer finance subsidiary with offices in Moline, East Moline, and Milan, Ill.

FDC operates its consumer finance business in the States of Iowa, Illinois, Wisconsin, Minnesota, and North Dakota, through subsidiaries known as Thrift Plan, Inc. (Iowa), Community Loan Corp. (Illinois), Citizens Loan and Investment Co. (Wisconsin and Minnesota), Phoenix Budget Loans, Inc. (Minnesota), Citizens Loan and Finance Co. (Wisconsin), and Phoenix Finance Co. (North Dakota).[3] FDC also controls 20.49 percent of the outstanding stock of Dubuque Bank and Trust Co., Dubuque, Iowa, all of which stock will be distributed to the present common stockholders of FDC as part of the acquisition transaction.[4] In addition, FDC owns all of the capital stock of an insurance company, Life of Mid-America Insurance Co., Dubuque, Iowa, which as a part of this application, FDC has committed to divest.

FDC competes in fifty-eight local consumer finance markets, one of which—the "Quad Cities" consumer finance market, the Davenport, Iowa/Rock Island, Ill. Ranally Metropolitan Area, the relevant geographic market for purposes of reviewing this application—is also the primary consumer finance market in which Applicant's subsidiary bank and consumer finance company compete. Applicant holds, through its bank subsidiary and three offices of its consumer finance subsidiary, approximately $16.7 million in consumer finance receivables originated in the Quad City market area, representing approximately 8.5 percent of the total amount of such receivables originated by financial institutions in the market. FDC controls, through two offices of its consumer finance subsidiary operating in Illinois, approximately $1.2 million of consumer finance receivables that were originated in the Quad City market, representing 0.6 percent of total receivables originated by financial institutions in the market.[4] Thus, upon consummation of the proposed acquisition, Applicant's share of the Quad City consumer finance market would increase only slightly. In view of the insubstantial increase in Applicant't market share and the competitive structure of consumer finance lending in the Quad City market, it appears that consummation of the proposal would not have any significant adverse effects on existing competition in the relevant area. In that Applicant is not one of the most likely entrants into other consumer finance markets in which FDC competes, it does not appear that consummation of the proposed acquisition would eliminate any substantial amounts of competition. Furthermore, there is no evidence in the record indicating that consummation of this proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Consummation of the proposed acquisition would facilitate FDC's provision of increased consumer services, such as home improvement loans, secondary mortgages on developed real estate, and vehicle financing. Accordingly, it appears that the acquisition proposal would produce benefits to the public that are consistent with and lend weight toward approval of this application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

[1] Unless otherwise noted, banking data are as of December 31, 1976.

[3] FDC and its consumer finance subsidiaries sell short-term subordinated investment notes and certificates ("thrift notes") to small investors in order to augment their operating funds. As of June 30, 1977, the aggregate amount of such thrift notes, excluding approximately $4.0 million issued in passbook form by two of FDC's subsidiaries licensed as industrial loan companies and examined on a periodic basis by State regulatory authorities, was $12.0 million, representing approximately 30 percent of FDC's total consolidated assets, less its investments in Life of Mid-America Insurance Co. and Dubuque Bank and Trust Co. (both of Dubuque, Iowa), which will be divested as part of the acquisition transaction. Applicant has indicated that, upon consummation of the proposed acquisition, (a) no sales of thrift notes issued by FDC or its finance company subsidiaries would be made by them in the principal service area of Applicant's subsidiary bank; (b) all such thrift notes would indicate that they are not obligations of or guaranteed by any bank and are not covered by Federal deposit insurance; (c) the net proceeds from the sale of such notes by FDC and its subsidiaries would be used solely for the purpose of providing funds for FDC's consumer finance business; and (d) within a year of consummation of the proposed acquisition, the aggregate principal amount of such notes and certificates would be reduced so as not to exceed 25 percent of FDC's total consolidated assets. On the basis of all of the facts of record, the Board has determined that the issuance and sale of such notes by FDC and its subsidiaries subject to the above conditions would not result in a violation of the Banking Act of 1933 (the Glass-Steagall Act) by reason of the affiliation of Applicant's member bank subsidiary with FDC.

[4] At no point will Applicant or its recently established subsidiary, Federal Discount Co., own or control any of such bank's stock.

[4] Within the Quad Cities market, Applicant and FDC generally compete with 28 consumer finance companies, 27 commercial banks and 125 credit unions.

with the provisions of § 4(c)(8) of the Act, that Applicant's acquisition of FDC can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. 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.

The 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 Chicago, pursuant to authority hereby delegated.

By order of the Board of Governors,[4] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26952 Filed 9-15-77;8:45 am]

FIRST DOUGLAS BANCORPORATION, INC.

Formation of Bank Holding Company

First Douglas BanCorporation, Inc., Tuscola, Ill., 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 80 percent or more of the voting shares of The First National Bank and Trust Co. of Tuscola, Tuscola, Ill. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 7, 1977.

Board of Governors of the Federal Reserve System, September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26953 Filed 9-15-77;8:45 am]

VALLEY FINANCIAL SERVICES, INC.

Determination Regarding "Grandfather Privileges" Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to § 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board is required to make such a determination with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970.

Notice of the Board's proposed review of the grandfather privileges of Valley Financial Services, Inc., Elkhart, Ind., affording an opportunity for interested persons to submit comments and views or request a hearing, has been given (40 FR 57398). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in § 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Valley Financial Services, Inc., Elkhart, Ind. ("Registrant"), became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act, by virtue of Registrant's ownership of approximately 81 percent of the voting shares of Valley Bank and Trust Co., Mishawaka, Ind. ("Bank") (assets of $67.5 million as of December 31, 1974). Bank, control of which was acquired by Registrant in January, 1966, had total deposits of approximately $77.4 million as of December 31, 1976, representing 6.5 percent of the total deposits in the South Bend banking market,[1] and is the seventh largest of fifteen banking organizations in that banking market. Bank's managerial and financial resources and future prospects are regarded as generally satisfactory, and the Board has found no evidence of any unsound banking practices.

Registrant is a finance company and engages directly in sales finance and secured and unsecured direct installment lending, and apparently has engaged in such activities continuously since before June 30, 1968. In addition, Registrant has three wholly-owned subsidiary finance companies which also engage in sales finance and direct installment lending: Owners Discount Corp. of Nappanee, Nappanee, Ind. (organized in March 1959); Owners Discount Corp of Goshen, Goshen, Ind. (organized in July 1959); and O.D.C. Corp of Elkhart, Elkhart, Ind. (organized in November 1967). Goods financed directly by Registrant and its subsidiaries are primarily autos and other consumer-type purchases. Registrant and its subsidiary finance companies also provide funds to auto dealers. As of December 31, 1975, Registrant and the finance company subsidiaries had total loan receivables of $5.8 million. Numerous other finance companies and lenders providing similar services compete with Registrant and its subsidiaries in their respective markets. Since Registrant has been engaged, directly and indirectly through its subsidiaries, in sales finance activities continuously since June 30, 1968, these activities appear to be eligible for grandfather privileges.

Registrant, through its wholly-owned subsidiary, Michiana Life Insurance Co., Elkhart, Ind., engages in underwriting as reinsurer credit life insurance related to extensions of credit by Registrant and its credit granting subsidiaries. Insurance premium income in 1975 was $153,000. Michiana Life Insurance Co. was organized by Registrant in 1956, and has been continuously engaged in its insurance activities since that time. Accordingly, such activities appear to be eligible for grandfather privileges.

In January 1969 Registrant acquired, as a result of a binding written contract entered into before June 30, 1968, Cast Products Corp., a distributor of plumbing supplies for the mobile home industry. Cast Products Corp., with sales of $2.4 million in 1975, accounts for approximately 0.2 percent of the total industry volume of $1.5 billion. Since Registrant has engaged in the activity of distributing plumbing supplies for mobile homes continuously since January 1969 as a result of an acquisition made by it pursuant to a binding written contract entered into prior to June 30, 1968, of a company engaging in that activity on the date of acquisition, such activity appears to be eligible for grandfather privileges.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the grandfathered activities of Registrant and its subsidiaries do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices.

There appears to be no reason to require Registrant to cease engaging in the activities it engages in directly nor to require Registrant to terminate its interest in its grandfathered subsidiaries. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary

[4] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell and Lilly. Absent and not voting: Governors Jackson and Partee.

[1] The South Bend banking market consists of the South Bend SMSA.

in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extent of Registrant's grandfathered activities or a change in location thereof (significantly different from that described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of § 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources of any of the other adverse effects designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, or acquisition of any interest in a going concern, to which the Registrant or its nonbank subsidiaries is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking 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 evasions thereof.

By determination of the Board of Governors,[1] effective September 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-26954 Filed 9-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77G-0099]

ARTHUR A. CHECCHI, INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: This notice amends the notice published in the FEDERAL REGISTER of May 27, 1977, to correct the omission of the complete identity of the petitioners. Novo Laboratories Incorporated, Wilton, Conn. 06897, should appear in both the summary and in the supplementary information sections of the notice in addition to Arthur A. Checchi, Inc. The changed sections are set forth below.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

* * * * *

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371 (a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), notice is given that a petition (GRASP 7G0086) has been filed by Arthur A. Checchi, Inc., 1730 Rhode Island Ave. NW., Washington, D.C. 20036, on behalf of Novo Laboratories Incorporated, Wilton, Conn. 06897, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in food and the gulcose isomerase enzyme are GRAS.

Dated September 7, 1977.

DONALD W. RIESTER,
Acting Director Bureau of Foods.

[FR Doc.77-26752 Filed 9-15-77;8:45 am]

[Docket No. 77N-0227]

SCHERING CORP. ET AL.

New Drug Applications; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of 21 new drug applications because of applicants' failure to submit required annual reports and their waiver of an opportunity for hearing. The drug products affected by this withdrawal are no longer marketed.

EFFECTIVE DATE: September 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4320).

SUPPLEMENTARY INFORMATION: The holders of the new drug applications listed herein have not submitted annual reports of experience with the drugs as required and have advised FDA that marketing of the drug products involved has been discontinued. The applicants have requested withdrawal of approval of the new drug applications and have waived their opportunity for hearing.

NADA No.	Drug name	Applicant's name and address
1-096	Cortate Solution in Oil	Schering Corp., 60 Orange St., Bloomfield, N.J. 07003.
1-543	Estrugenone Injection	Kremers-Urban Co., P.O. Box 2038, Milwaukee, Wis. 53201.
3-429	Vinobel Tablets	Merrell-National Laboratories, Division of Richardson-Merrell Inc., Cincinnati, Ohio 45215.
5-495	Cortate Pellets	Schering Corp.
6-338	Folic Acid Tablet and Sterile Solution	O'Neal, Jones & Feldman, Inc., 2510 Metro Blvd., Maryland Heights, Mo. 63043.
7-098	Histalon Tablets	Hance Brothers & White Co., Inc., 12th and Hamilton St., Philadelphia, Pa. 19123.
7-600	Anapac (Monhistin A.P.C.) Tablets	Rexall Drug Co., 3901 North Kingshighway Blvd., St. Louis, Mo. 63115.
7-727	ACTH Solution	Merrell-National Laboratories.
8-424	Tyvid Tablets	Do.
8-738	Brisk Activated Toothpaste, Colgate Chlorophyll Toothpaste with Gardol, Colgate Dental Cream with Gardol.	Colgate-Palmolive Co., 909 River Rd., Piscataway, N.J. 08854.
9-742	Toclase Expectorant	Pfizer Pharmaceuticals, 235 East 42d St., New York, N.Y. 10017.
9-931	Meticortelone Tablets	Schering Corp.
9-944	Super Amm-i-dent Toothpaste	Block Drug Co., Inc., 257 Cornelison Ave., Jersey City, N.J. 07302.
11-061	Meticortelone Soluble Sterile Powder	Schering Corp.
11-402	Professional Dial Soap with AT-7 (hexachlorophene, and 3, 4, 4 trichlorocarbanilide).	Armour-Dial, Inc., 15101 North Scottsdale Rd., Scottsdale, Ariz. 85260.
11-778	Gold Au 198 Solution	Mallinckrodt, Inc., Mallinckrodt and Second Sts., St. Louis, Mo. 63147.
12-024	Allercur Tablets	Pfizer Pharmaceuticals.
16-316	Tamate Tablets	Merrell-National Laboratories.
16-608	Strontium Nitrate Sr 85 Injection	Mallinckrodt, Inc.
16-779	Neohydrin-203 Injection	Abbott Laboratories, North Chicago, Ill. 60064.
17-261	Gold Au 198 Injection	Mallinckrodt, Inc.

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governors Partee and Lilly.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053 as amended (21 U.S.C. 355 (e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn on the grounds that the applicants have failed to make reports under section 505(j) of the act (21 U.S.C. 355(j)) and §§ 310.300 or 310.302 (e) and (f) of the new drug regulations (21 CFR 310.300 and 310.302 (e) and (f)).

This order shall become effective on September 26, 1977.

Dated: September 8, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-26753 Filed 9-15-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Obstetrical and Gynecological Device Classification Panel.	Oct. 3, 9 a.m., room 6821, FB-8, 200 C St. SW., Washington, DC.	Open public hearing/open committee discussion 9 a.m. to 1 p.m.; closed committee deliberations 1 p.m. to 4 p.m.; Lillian Yin, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing/open committee discussion. Williard Cates, M.D., will discuss "Late Effects of Induced Abortion—Summary of Clinical Findings"; Carol Hogue, Ph.D., will discuss "Late Effects of Induced Abortion—Methodologic Considerations"; and Harry Butts, Bureau of Medical Devices, will discuss "FDA's Requirements for Condoms." Interested parties are encouraged to present information pertinent to late effects of abortion to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 26, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Closed committee deliberations. The committee will review a premarket approval application of an obstetrical-gynecological device. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Viral Vaccines and Rickettsial Vaccines Panel.	Oct. 3 and 4, 9 a.m., room 121, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing Oct. 3, 9 a.m. to 10 a.m.; open committee discussion Oct. 3, 10 a.m. to 3 p.m.; closed presentation of data Oct. 3, 3 p.m. to 4 p.m.; closed committee deliberations Oct. 3, 4 p.m. to 5 p.m.; open committee discussion Oct. 4, 9 a.m. to 4 p.m.; Jack Gertzog (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of communications received; presentation by staff members on the Bureau's Cell Substrate Program; and review of final draft of panel report.

Closed presentation of data. Presentation by sponsor of license application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. Discussion of data submitted in support of license application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
3. General and Plastic Surgery Device Classification Panel.	Oct. 6, 8 a.m., Room 5051, HEW-N, 330 Independence Ave. SW., Washington, DC.	Open committee discussion 8 a.m. to 2 p.m.; closed committee deliberations 2 p.m. to 2:30 p.m.; open public hearing 2:30 p.m. to 3:30 p.m.; Mark F. Parrish, Ph. D. (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open committee discussion. The following devices will be classified: Human umbilical vascular grafts; topical oxygen chambers; ultrasonic surgical devices; dermatological ultraviolet lights; colonic irrigator systems; and aortosaphenous vein markers. The panel will review its classification recommendations for surgeon's gloves and implanted breast prostheses. The panel will discuss priorities for development of standards for surgical drapes. The panel will review the ECRI electrosurgical device standard.

Closed committee deliberations. The panel will review a premarket approval application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the classification of the devices listed above to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by September 30, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Committee name	Date, time, and place	Type of meeting and contact person
4. Cardiovascular Device Classification Panel.	October 7, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 11 a.m.; closed committee deliberations 12 p.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7559.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of cardiovascular devices to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by September 23, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentation.

Open committee discussion. During the open committee discussion session the panel members will discuss their final classification report. And at their request, the panel members will reconsider their classification of pulsatile flow generators.

Closed committee deliberations. The panel members will review a premarket approval application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
5. Blood and Blood Derivatives Panel.	Oct. 7 and 8, 9 a.m., Room 115, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing Oct. 7, 9 a.m. to 10 a.m.; open committee discussion Oct. 7, 10 a.m. to 5:30 p.m. Oct. 8, 8:30 a.m. to 1 p.m.; closed committee deliberations Oct. 8, 1 p.m. to 4 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of source plasma (human); antihuman serum; blood group specific substances; revision of reviews of stored red blood cell products; revision of reviews of plasma fraction products; and comments or questions from the public.

Closed committee deliberations. Review of data submissions of producers of plasma fractionation products including Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is

likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personal records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: September 12, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-26949 Filed 9-15-77;8:45 am]

[Docket No. 77N-0283]

LEMMON PHARMACAL CO.

Adipex-P (Phentermine Hydrochloride 37.5 mg) Tablets; Opportunity for Hearing on Proposal To Refuse To Approve New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse approval of an abbreviated new drug application for Adipex-P (phentermine hydrochloride 37.5 milligram) tablets (ANDA 85-128) by Lemmon Pharmacal Company, P.O. Box 30, Sellersville, PA 18960 ("Lemmon"), on the grounds (1) that (a) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not Adipex-P is safe for use under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof, and (b) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether Adipex-P is safe for use under such conditions, and (2) that Adipex-P is a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act") and information relating to its safety and effectiveness must be contained in a new drug application in order to be approved under section 505 of the act (21 U.S.C. 355).

DATES: Any request for a hearing must be submitted on or before October 17, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before November 15, 1977.

ADDRESS: Requests, supporting data and information, and other comments shall be submitted, with FDA Docket No. 77N-0283 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As required by the Drug Amendments of 1962, FDA is engaged in a Drug Efficacy Study Implementation (DESI) program under which each drug covered by a new drug application (NDA) that was approved by FDA on the basis of safety between 1938 and 1962 is reviewed to determine whether substantial evidence exists to demonstrate that the drug is effective for its labeled indications. As reviews are completed, notices are published in the FEDERAL REGISTER announcing the agency's conclusions on the effectiveness of the drugs reviewed.

In the FEDERAL REGISTER of February 12, 1973 (38 FR 4280), FDA published DESI Notice 11673 stating that Wilpo Tablets containing 8 milligrams of phentermine hydrochloride as a single active ingredient in non-controlled-release form and marketed by Dorsey Laboratories is effective "in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restriction." The Indications section further was to read: "The limited usefulness of agents of this class * * * should be measured against possible risk factors inherent in their use * * *" The DESI notice also stated that Wilpo Tablets is regarded as a "new drug" as defined in section 201(p) of the act, and that "a new drug application is required from any person marketing such drug without approval." Furthermore, "all identical, related, or similar drugs, not the subject of an approved new drug application * * * are subject to this notice," citing the current 21 CFR 310.6. Finally, referring to a prior general announcement by FDA published in the FEDERAL REGISTER of July 14, 1970 (34 FR 11273), DESI Notice 11673 advised that "marketing of such drugs may be continued * * * [by] any person who does not hold an approved or effective new drug application, [upon] the submission of an abbreviated new drug application" (ANDA) within 60 days of the notice. The July 14, 1970 announcement also permitted manufacturers to commence marketing upon the filing of an NDA or ANDA. (On September 22, 1975, FDA published in the FEDERAL REGISTER a general notice (40 FR 43531) that in effect revoked those portions of the July 14, 1970 announcement that were inconsistent with the District Court's order in *Hoffmann-LaRoche, Inc* v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the September 22, 1975 notice. That order, and the September 22, 1975 notice, withdrew any "permission" from FDA for a new supplier of a drug listed in DESI notice 11673 to commence marketing upon submission of an NDA or ANDA but prior to the approval of an NDA or ANDA.)

APPLICATION FOR ADIPEX-P

On May 4, 1976, Lemmon submitted an ANDA (assigned number ANDA 85-128) for the following product:

Adipex-P Tablets (phentermine hydrochloride 37.5 milligrams). The ANDA form of a new drug application does not contain preclinical or clinical studies demonstrating the safety or effectiveness of the drug product. 21 CFR 314.1(f). The proposed labeling for the drug product contained a statement of indications identical to that set forth in DESI Notice 11673. On May 26, 1976, July 30, 1976, and November 10, 1976, Lemmon was informed by FDA that no provision had been made for filing an ANDA for a 37.5-milligram phentermine hydrochloride non-controlled-release tablet and that a full NDA is required.

On July 12, 1977, the firm requested that the application be filed over protest, as provided for in 21 CFR 314.110(d). Under that regulation, FDA is required to reevaluate the application and within 60 days the agency must either approve the application or give written notice of an opportunity for a hearing on the question of whether the application is approvable. This notice is provided pursuant to that regulation.

STATUS OF PHENTERMINE HYDROCHLORIDE 37.5-MILLIGRAM TABLETS AS A NEW DRUG

Section 201(p) of the act defines a "new drug" as any drug for human use "the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof," or any drug for human use "the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions." Section 201(p)(1) of the act exempts from the definition of "new drug," through a "grandfather clause," a drug marketed in 1938 and subject to the Food and Drug Act of 1906. Section 107(c) of the Drug Amendments of 1962 further exempts certain new drugs from the effectiveness standards of section 201(p).

The Food and Drug Administration has consistently asserted that the "new-

ness" of a drug product arises from many factors. First, and most obvious, is whether the individual chemical entity contained in the product is a "new drug." 21 CFR 310.3(h)(1). As noted above, phentermine hydrochloride has been treated by FDA as a "new drug" for many years, and has not yet been formally determined by FDA to be generally recognized as safe and effective and no longer to be a "new drug."

Second, even if the individual drug substance is not itself a "new drug," the newness of the dosage, among other things, may cause a drug product to be regarded as a "new drug." 21 CFR 310.3(h)(5). The Director notes that the labeling of drugs approved pursuant to DESI Notice 11673 for conventional oral tablets containing 8 milligrams of phentermine hydrochloride provides for a usual dose of one 8-milligram tablet one-half hour before meals. It further provides for a 4-milligram dose one-half hour before meals for patients not requiring the full dose. Thus, the highest dose of a non-controlled-release product to be given at one time is 8 milligrams. The amount of phentermine hydrochloride in the proposed non-controlled-release tablet (37.5 milligrams) is over four and one-half times the recommended usual dose. The Director further notes that phentermine hydrochloride is related chemically and pharmacologically to amphetamine and appears to have a similar potential for abuse and risk of causing dependence in the user. Actual abuse of the drug was a significant factor in the decision of the Department of Justice to schedule phentermine under the Controlled Substances Act (see 38 FR 18013; July 6, 1973), as well as in FDA's decision to require a drug dependence warning in the labeling (see DESI Notice 11673). Because higher strength dosage forms would be even more attractive for abuse purposes, this safety problem increases and significantly affects the benefit-risk assessment.

The Director concludes that the fact that 8 milligrams of phentermine hydrochloride was found to be safe and effective for certain indications, as stated in DESI Notice 11673, is not a basis for concluding that 37.5 milligrams is safe for the same indications. Another question raised by the 37.5-milligram dosage is whether it provides any therapeutic benefit to the patient over the 8-milligram dosage to offset its inherent risks. The approved labeling for Wilpo Tablets provides for a usual dose of one 8-milligram tablet three times daily and provides for one-half that dose for patients not requiring the full dose. The 8-milligram dosage form adequately provides the intended flexibility in dosage. A 37.5 milligram tablet would substantially reduce the physician's ability to individualize the dose to, for example, 4 milligrams. At the same time, amphetamine and amphetamine analogs such as phentermine produce in patients a tolerance to the therapeutic effects. It is not known whether this tolerance develops more quickly at higher dosage levels; but if so, the duration of therapy described in the labeling would be unsupported by evidence of effectiveness. Finally, special safety problems may be presented to the patient from a 37.5-milligram tablet; in addition to the possibly more rapid onset of dependence on the drug, the risks of accidental overdosage are increased by a large dosage. Thus, no medical advantage, but possible serious disadvantages, seem to exist for the 37.5-milligram dosage compared to the 8-milligram tablet. Stated differently, there does not appear to be a significant patient population in whom the risks from a 37.5-milligram dosage from are outweighed by the benefits of such a product. This is not to say that clinical evidence that measures the safety and effectiveness could not demonstrate that a 37.5-milligram product meets the standards of the act. Rather, it is that such data are necessary before FDA can conclude that the novel questions posed by this significantly different dosage can be answered. For these reasons, FDA has determined that a new dosage of a drug, even one that at another dosage is generally recognized as safe and effective, is not always and immediately recognizable as safe and effective. See 21 CFR 310.3(h)(5). The agency, therefore, has required a "full" NDA or a supplemental NDA, containing clinical evidence demonstrating the safety and effectiveness of a different dosage of an approved drug.

Section 201(p)(2) of the act provides a further condition to "not new drug" status for a drug that becomes generally recognized by experts as safe and effective. It also requires that the drug have been used to a material extent or for a material time. This has generally been measured by the duration and volume of commercial marketing in the United States. There was no non-controlled-release dosage form containing more than 8 milligrams of phentermine hydrochloride in the DESI program, and no such product has ever been approved for marketing under section 505 of the act. The Director is not aware that any non-controlled-release product containing more than 8 milligrams of phentermine hydrochloride is now generally recognized by experts as safe and effective for the indications set forth in DESI Notice 11673, nor is he aware of any such product's having been used to a material extent or for a material period in the United States.

Based on the facts set forth above, the Director of the Bureau of Drugs finds that Adipex-P Tablets containing 37.5 milligrams of phentermine hydrochloride in non-controlled-release form is a "new drug" as defined in section 201(p) of the act, on the grounds that the non-controlled-release dosage form at this dosage is not generally recognized as safe and effective and has not been used to a material extent or for a material time.

QUESTION OF APPROPRIATE TYPE OF APPLICATION FOR NON-CONTROLLED-RELEASE FORMS OF PHENTERMINE HYDROCHLORIDE

In the FEDERAL REGISTER of July 19, 1974 (39 FR 26459), FDA published DESI Notice 5378 stating that Ionamin "30" Capsules, containing 30 milligrams of phentermine as a cation exchange resin complex of sulfonated polystyrene (a controlled-release product) is effective for the same indications as described above for Wilpo Tablets (DESI 11673). The notice provided for the submission of ANDA's for identical, related, or similar products.

Lemmon's submission of an ANDA for Adipex-P is based on an interpretation of DESI Notice 5378 that phentermine hydrochloride in a 37.5-milligram non-controlled-release form is a proper submission as an identical, related, or similar drug covered by DESI Notice 5378 for a 30-milligram controlled-release form of phentermine. The Director of the Bureau of Drugs believes that this argument is founded on a misinterpretation of 21 CFR 310.6 and a misunderstanding of the nature and purpose of the ANDA.

Section 310.6 was promulgated by FDA in light of experience gathered in the DESI program. As explained in paragraph (a) of the section:

> The specific products listed in these [DESI] notices include only those that were introduced into the market through the new-drug procedures from 1938–62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS-NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during the same period or since 1962 without going through the new-drug procedures or the Acedemy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable.

The Director notes that the concept of "identical, related, or similar drug products" was expressed in terms of giving interested persons "the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing"; that is, to participate in the process of classifying their products as "effective" or "ineffective." The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

> Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning

effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director is not aware that experts qualified by training and experience to evaluate the safety and effectiveness of drugs have concluded that the findings in DESI Notice 5378 on the effectiveness of phentermine in a controlled-release 30-milligram dosage form are applicable to a non-controlled-release 37.5-milligram dosage form of phentermine hydrochloride, nor was any evidence offered by the applicant to establish this point. Therefore, the Director finds that the non-controlled-release product is not a product that is identical, related, or similar to that described in DESI Notice 5378, and that that notice does not authorize the submission of ANDA's for such non-controlled-release products. The Director similarly finds that Adipex-P containing 37.5 milligrams of phentermine hydrochloride, a non-controlled-release product, is not a product that is "identical, related, or similar" to that described in DESI Notice 11673 that deals with an 8-milligram non-controlled-release dosage form. Each Adipex-P tablet contains approximately the same amount of the phentermine moiety as does each capsule of the controlled-release product Ionamin "30". The controlled-release product is not intended to deliver the entire amount for pormpt absorption as is the non-controlled-release product. Because of this, the Director finds no basis for concluding that the two products are equally same for use.

Use of Abbreviated New Drug Applications by FDA

The history of the new drug provisions of the act and the agency's implementation of them, including introduction of the ANDA, is described in detail in the preamble to a notice of proposed rulemaking published in the Federal Register of June 20, 1975 (40 FR 26142). The Director will not reiterate that history here. He believes, however, that several points bear emphasizing. First, an ANDA is a new drug application; it represents a form of application in which certain information normally part of an NDA is not required because it is not essential to the agency's reaching a decision on the approvability of the drug product under section 505 of the act. This information requirement is waived because the agency already has sufficient publicly available data and information in its files to make appropriate conclusions on those elements of the drug approval decision. (Information contained in other approved NDA's may or may not be public. See 21 CFR 314.14. If not public, it may be relied upon by a second applicant only with the express permission of the first applicant. 21 CFR 314.11.) Generally, the information allowed to be omitted relates to preclinical and clinical studies regarding the safety and effectiveness of the active ingredients. As the Commissioner stated in the June 20, 1975, notice:

> [A]n abbreviated NDA is appropriate only for those drugs which, from a generic standpoint, are generally recognized as safe and effective when they are properly labeled and manufactured. The submission of an abbreviated NDA has thus been required only to assure the quality of drug products and their proper labeling and manufacture, not to show the basic safety and effectiveness of the generic chemical entity involved. (40 FR 26147).

The purpose of an ANDA is to provide a means to eliminate unnecessary animal and human experimentation, to reduce the burdens on manufacturers in attempting to market duplicates of established drugs, and to ease the workload of FDA in reviewing and processing applications.

Second, in order for FDA to waive such requirements, it must affirmatively conclude that it has sufficient public information to make the requisite conclusions. Because the ANDA is an exception to the general rule requiring a complete NDA, the decision to allow use of an ANDA must be consciously and prospectively made by the agency. (See 21 CFR 314.1 (a): "* * * if the drug * * * is one for which an abbreviated new drug application has been *found* by the Food and Drug Administration to be sufficient. * * *" (emphasis added).) These decisions are formal and are officially issued, generally by a notice in the Federal Register but on rare occasions by other public notice. These decisions cannot extend to products for which little or no public information is available and which are not considered by FDA in making the ANDA decision. The product covered by this notice illustrates why this is so. No non-controlled-release form containing 37.5 milligrams of phentermine hydrochloride was reviewed in the Drug Efficacy Study and no such product has been approved by marketing in the United States. Appropriate information is needed to determine, for example, whether any medically significant differences exist in factors such as absorption rates, blood levels, metabolism, and excretion between the controlled-release dosage form containing 30 milligrams of phentermine and a non-controlled-release dosage form containing 37.5 milligrams of phentermine hydrochloride when used in accordance with the labeling approved pursuant to DESI Notice 5378. Other examples of unforeseen variations in drugs reviewed in the DESI program have also recently been uncovered in the process of implementing the court order in the *Hoffmann-La-Roche* case (discussed earlier), including untested combinations of two or more drugs and substantial increases in the strength of the drug. Clearly, it is contrary to the public interest, as well as the language of sections 201(p) and 505 of the act and implementing regulations cited above, for FDA to waive any information essential to determine the approvability of such a drug.

Third, the choice between NDA (including a supplemental NDA) and ANDA is not an "either-or" option. For many years, the agency has imposed on applicants using either application process a variety of requirements depending on the nature of the drug product, the types of information publicly available regarding the drug, and similar factors. Thus, some NDA's require chronic animal toxicology testing, and others do not; some ANDA's require detailed manufacturing data, and others do not; some NDA's and ANDA's require bioavailability data, and others do not. As noted, the most common distinction between the NDA and the ANDA relates to requirements for preclinical and clinical data. But this distinction should not blur the close similarity on most matters. To repeat, both the traditional "full" NDA and the most "abbreviated" ANDA are merely types of applications described in section 505 of the act.

Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission.

The Director finds that the use of an ANDA for a non-controlled-release form containing 37.5 milligrams of phentermin hydrochloride would be inconsistent with the purposes of the abbreviated form of a new drug application, has not been authorized by the Food and Drug Administration, and would not fulfill the requirements of section 505 of the act regarding the requisites for approval of such a product. Because of this, the Director finds that Lemmon must submit an application in the form described in 21 CFR 314.1(c) containing reports of investigations and adequate tests to show whether or not its product is safe for use under the conditions in the proposed labeling.

Lack of Information in Application

The Director finds that the ANDA for Adipex-P Tablets lacks any reports of preclinical or clinical investigations on the product. Because the application lacks safety data, the information therein has not been evaluated to determine whether it satisfies the other requirements of the act and new drug regulations. If, as a result of this notice, a hearing is requested and it is determined that a hearing will be ordered, the Bureau of Drugs will then review the other parts of the application and raise any remaining issues in the notice of hearing.

Notice of Opportunity for Hearing

Therefore, notice is given to Lemmon and all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(d) of the act refusing to approve ANDA 85-128 on the following grounds: (1) the

application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not the product is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; and (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drug is safe for use under such conditions.

If Lemmon elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and 21 CFR 314.-200, it must file with the Hearing Clerk, Food and Drug Administration, (1) written notice of appearance and request for hearing by October 17, 1977, and (2) the data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by November 15, 1977. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, the notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.-200.

The failure of the applicant to file a timely written appearance and request for hearing as required by 21 CFR 314.-200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Drugs will summarily enter a final order refusing to approve the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: September 9, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-26948 Filed 9-15-77;8:45 am]

[Docket No. 76N-0462]

PROBAN BRAND OF CYTHIOATE ORAL LIQUID

Final Order Denying Request for Hearing on Refusal To Approve New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a request for a hearing on a refusal to approve a supplemental new animal drug application for Proban (NADA 33-606).

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3420).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 19, 1976 (41 FR 51078), the Director of the Bureau of Veterinary Medicine (BVM) issued a notice of opportunity for hearing on the refusal to approve a supplemental new animal drug application (NADA) for over-the-counter (OTC) use of Proban brand of cythioate manufactured by American Cyanamid Co. (hereinafter cited "Cyanamid"), P.O. Box 400, Princeton, N.J. 08540, for the control of fleas on dogs. The notice stated that the Director was refusing to approve the supplemental NADA on the grounds that:

1. The drug had not been shown to be safe by adequate tests by all methods reasonably applicable to show whether or not such drug is safe for OTC use, i.e., the drug had not been shown to be safe without the supervision of a veterinarian for the proposed conditions of use pursuant to section 512(d)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(A));

2. The results of the tests show that the drug had not been shown to be safe for OTC use pursuant to section 512(d)(1)(B) of the act (21 U.S.C. 360b(d)(1)(B)); and

3. On the basis of the information submitted and other information, there is insufficient evidence to determine whether the drug is safe under the proposed conditions of OTC use pursuant to section 512(d)(1)(D) of the act (21 U.S.C. 360b(d)(1)(D)).

In the notice, the Director of BVM first set forth a description of the evidence necessary to show that an organophosphate drug is safe for OTC use in companion animals and the basis for requiring each type of test. He further provided Cyanamid with an in-depth analysis of the data in the NADA jacket and available from the other sources explaining why he had concluded that Cyanamid had failed to demonstrate the safety of Proban for the proposed conditions of OTC use.

This action is the refusal to approve an NADA; accordingly, Cyanamid has the burden of showing that Proban is safe for OTC use. That showing must satisfy the statutory requirement of evidence from adequate tests by all methods reasonably applicable. Thus, to sustain its request for a hearing, Cyanamid cannot merely file affidavits containing contraverting allegations; it must show that it will produce evidence from adequate tests showing that Proban is safe for OTC use in accordance with the requirements of § 514.200 (21 CFR 514.200) of the regulations.

In response to the notice, Cyanamid submitted its analysis of the data on the NADA and affidavits of scientists and company personnel. Cyanamid also requested additional time to submit information to be obtained from the Environmental Protection Agency and BVM pursuant to requests for information filed under the Freedom of Information Act. The Director granted this request by letter dated December 17, 1976; as a result, the time for issuing subsequent notices in this matter was deferred 30 days. The material sought from BVM was released on February 2, 3, and 8, 1977, but no further submission has been received from Cyanamid.

The Commissioner has considered all of the material submitted by Cyanamid and has concluded that there is no genuine issue of material fact requiring a hearing and that the legal objections offered are insubstantial. The standards imposed by the Director are appropriate; their bases are fully explained; Cyanamid's experts concur that the standards are reasonable, although the precise length of time to complete the required long-term studies was questioned; and Cyanamid has submitted no evidence satisfying them. Further, even under Cyanamid's analysis of the test evidence, the data are inadequate to show that the drug is safe for OTC use; rather, they show that the drug has not been shown to be safe for OTC use. A full discussion follows:

A. THE DRUG

Trade name: Proban Oral Liquid, 1.6% (w/w).
Generic name: Cythioate—each milliliter (ml) contains 15.0 milligrams (mg).
Chemical name: O,O-dimethyl O-p-sulfamoylphenyl phosphorothioate.

Proban Oral Liquid, 1.6% was originally approved June 3, 1968, as a prescription drug for control of fleas on

dogs. A supplemental NADA, initially submitted on April 18, 1972, sought approval to market the drug with virtually identical labeling for OTC (nonprescription) use.

The drug is to be administered orally, and the recommended dosage is 1 ml for each 10 pounds of body weight (3.3 mg of cythioate/kilogram (kg) once every third day or twice a week). The drug is directly applied to the dog's food and thoroughly mixed in. There is no stated limit on the permissible maximum duration of administration.

The labeling for Proban cautions against use of the drug simultaneously with flea collars and other drugs or articles such as insecticides, pesticides, or wormers. There are also contraindications against use in greyhounds and animals that are pregnant, sick, under stress, or recovering from surgery. In addition, the labeling contains the following warning statements:

Keep out of reach of children. Avoid prolonged or repeated contact with skin and wash thoroughly after handling. If swallowed by humans, induce vomiting by giving two tablespoons of salt in glass of water and call a physician immediately; and

"Note to physician and veterinarian" upon repeated, prolonged, or careless use, Proban may cause market cholinesterase inhibition. Atropine is antidotal.

B. Determination of the Safety for Over-the-Counter Use of New Animal Drugs Under Sections 502(f) and 512 of the Federal Food, Drug, and Cosmetic Act

1. *Introduction.* Toxicity is the state of being a potential source of harm for any reason directly attributable to the drug. Toxicity includes more than poisonous effects. To demonstrate that an animal drug product is safe for OTC use, the drug's sponsor must show that the toxicity or other potential harmful effect attributable to the drug, viewed in conjunction with the proposed methods of the drug's use without the supervision of a licensed veterinarian, will be prevented by adequate labeling directions that are reasonably certain to be followed in practice by laymen. For Proban, an organophosphate product intended for unlimited duration of oral use in dogs for the control of fleas, the sponsor, Cyanamid, must affirmatively demonstrate that administration of the drug without a veterinarian's order will result in no adverse reactions from OTC use of the drug that may be sufficient in number or severity to cause this use to be considered unsafe. This is a multistep process that was explained in detail in the notice. In brief summary, the sponsor must describe the disease to be treated, document the intoxication or toxicity caused by the drug, calculate the drug's margin of safety in the target animals, and demonstrate the drug's safety in well-controlled field investigations under simulated proposed labeling conditions. In the absence of this evidence, the Commissioner must conclude that the drug has not been shown to be safe for OTC use.

2. *Description of toxicity.* Cyanamid has not provided any evidence demonstrating that laypersons can recognize and interpret the subtle toxic signs of Proban intoxication. These signs may lead to death whether or not administration of the drug is terminated. Furthermore, these initial toxic signs may be precursors to severe toxicity which has a latent period. In the absence of this information, Cyanamid contends the Commissioner should rely on textbook assessments of organophosphate toxicity in general. Moreover, in the area of animal health, Cyanamid apparently subscribes to the theory that only severe toxic reactions, including the death of the target animal, are adverse reactions sufficient to require use of the drug under a veterinarian's order. Yet Cyanamid characterized the one reported death as an anomaly. However, since the test in which the death occurred contained no controls, all adverse reactions, including the death, must be attributed to the use of the drug.

3. *Intoxication syndrome—margin of safety.* Cyanamid has submitted affidavits but no new data to characterize the intoxication syndrome and thereby establish the margin of safety of Proban. Furthermore, Cyanamid's experts did not disagree with the testing format outlined by the Director in the notice. Dr. Harr's affidavit discusses the LD_1 (the dose of a drug that is projected to be lethal to percent of the test animals) and the ED_{99} (the dose that is projected to be effective for 99 percent of the test animals). (Affidavit of Dr. James R. Harr; Exhibit 16.) Both are aspects of the margin of safety, which is the issue in this matter. Risk of lethality (LD_1) is only one aspect of the margin of safety. As set forth in the notice, the margin of safety must include measurement of the significant harmful effects or irreversible toxic reactions. Death, of course, is a significant irreversible harmful effect, but Cyanamid has submitted no evidence on severity of diarrhea, vomition, salivation, etc. Again, the Commissioner rejects Cyanamid's implicit premise that death of the animal is the only adverse reaction that warrants restrictive use of the drug. This premise underlies the protocals and testing approach of the toxicity studies submitted by Cyanamid. Principally, gross methods of observation were used to measure the toxicity of cythioate, which may fail to detect many of the subtle signs of intoxication of these drugs, and Cyanamid subsequently argues that the failure to observe these signs constitutes a demonstration that they did not occur.

Cyanamid must demonstrate that Proban is safe for OTC use through adequate tests, and Cyanamid has not submitted any evidence that satisfies the concerns raised in the notice. Instead, it contends that BVM has failed to show that Proban is unsafe and disputes minor points in BVM's analysis of the data submitted.

It repeatedly asserts that the absence of lethality at an administered level of the drug, when one or two dogs are administered the raw technical grade of cythioate, demonstrated that Proban is safe at that level. When death occurred, however, Cyanamid suggests that this was an anomaly. In addition, it submitted no evidence to demonstrate the equivalence of studies conducted with the technical grade of cythioate with studies on the marketed dosage form of Proban in the target species. Finally, Cyanamid contends that, despite the absence of an intoxication profile, an adequate margin of safety exists for the drug because a few test animals that were administered cythioate in high doses survived.

This evidence, however, fails to address the problems of nonfatal significant harmful or irreversible toxic reactions; i.e., it confuses risk of lethality with margin of safety. Therefore, the Commissioner concludes that the margins of safety, as defined in the notice, has not been determined; moreover, as discussed in the notice and supported by the affidavits of Cyanamid's experts, the studies are insufficient to demonstrate that Proban is safe for OTC use.

4. *Field tests.* Although the Director explained why well-controlled field investigations with the final dosage form under the proposed conditions of the drugs' use were necessary to demonstrate Proban's safety, Cyanamid has not submitted any evidence to satisfy this standard. Moreover, it has submitted no evidence to rebut the articulated deficiencies in the clinical reports filed about Proban, and it has submitted no evidence to explain why those clinical reports should be considered acceptable.

Instead, Cyanamid has attempted to muddle two distinctly different testing situations. In the first, the veterinarian supervises the animal study and records the observations (studies for prescription use). In the second, the veterinarian supervises, but laypersons make the individual observations (studies for OTC use). The latter is necessary to demonstrate that a drug is safe for OTC use, and such evidence is lacking on Proban.

Cyanamid claims that the clinical series reports meet the Director's requirement for field tests designed to show that adequate directions can be written for lay use. But the clinical series were designed to support an application for prescription use. For all of the above reasons, the Commissioner concludes that there can be no genuine issue as the inadequacy of these studies to show that adequate directions for OTC use of Proban can be written.

5. *Conclusion.* Simply, the issue is whether the available data, laboratory and clinical, adequately document the safety of Proban for OTC use. The following statements in the affidavit of one of Cyanamid's experts support the Director's position by acknowledging grossly apparent deficiences in the available data:

I have carefully examined the FDA remarks regarding the studies of Gross and Rohrbacher No. 1, McNerney, Grosse and Rohrbacher No. 2 and Wang and Colavita and con-

clude that much of what was said was true. The sign of toxicity varied greatly depending upon the dosage, however, in the low dosage ranges (close to clinical levels) vomiting, diarrhea, tremors, loss of appetite and depressed cholinesterase levels were noted. (December 15, 1976 Affidavit of Dr. William D. Black (Exhibit 15) at 1.)

* * * * *

The fact that some of the toxicity studies were poorly controlled, or the numbers were too low, only point out the fact that many of these trials were done in the early 1960's. Times have changed and so have the standards for drug testing. (Id.)

* * * * *

Much of what was said in this notice was true and taken in the narrow context of preclinical toxicity and safety data cannot be disputed. There is no doubt that the original study, carried out in the early '60's [sic] had many flaws, when considered in the light of 1976 standards. (December 14, 1976, letter of Dr. William D. Black (Exhibit 15) at 1.)

* * * * *

Both the sponsor's request for hearing [hereinafter cited "Req".] and the Director's notice are fully discussed herein. Cyanamid contends that many factual issues exist, but the Commissioner concludes that all are peripheral in nature. For this reason, the disputes do not alter the basic conclusions set forth in the notice.

The Commissioner has evaluated the evidence submitted by Cyanamid to demonstrate that Proban is safe for OTC use, and he has concluded that adequate tests have not been submitted to demonstrate that the drug is safe for that use and that the results of the tests submitted have not shown that the drug is safe for OTC use. Accordingly, the Commissioner finds that there is insufficient evidence for him to conclude that Proban is safe for OTC use.

C. Diagnosis of Toxicity

Because neither an intoxication profile nor an intensive pathological evaluation of the test animals was available, the Director outlined the general signs of organophosphate intoxication and methods used by the sponsor to observe the test animals in the notice. These were used as the basis for evaluating the safety of Proban. As will be further amplified, the design of the studies submitted by Cyanamid is inadequate to determine whether Proban is safe for OTC use and a fortiori to prove that it is safe for that use.

D. Evidence Submitted To Demonstrate That Proban Is Safe for OTC Use

1. *Acute toxicity studies.* Acute toxicity studies are useful to provide initial evidence about a drug's potential for harm from acute, short-term doses of a drug. For long-term drug use such studies are helpful, but the information provided is only the first step in obtaining the data necessary to show that a drug is safe for OTC use. Cyanamid submitted the following information on the acute toxicity of Proban:

Grosse and Rohrbacher Study No. 1. The Director reviewed this study, discussed it in the notice, and concluded that it fails to demonstrate Proban's safety for OTC use. In addition, he concluded that, despite the small test animal population, the study demonstrates that Proban is toxic and may be unsafe for use without a veterinarian's order.

Cyanamid's request for hearing failed to demonstrate the existence of a substantial factual issue concerning the conclusions reached by the Director about this study. As noted by the affidavits submitted, the number of animals tested is too small to demonstrate Proban's safety. (Affidavit of Dr. Black at 1). The analysis of the study in Cyanamid's request, however, demonstrates that Proban under certain conditions is toxic and has a potentiality for harm.

The recommended dose of Proban is 3.3 mg/kg of body weight every 3 days or twice a week, and repeat treatment without a finite limitation is advocated. Cyanamid avers that 10 mg/kg/day for 3 days constitutes nine times the recommended dose, but it has apparently confused the concepts of total dose exposure with that of dose-related toxicity. (R.D. Radcleff, *Veterinary Toxicology*, 2d Ed., pp. 11–15, Philadelphia, Lea & Fabiger, 1970.) That a given amount of drug may produce completely different toxicological reaction when administered as a single dose compared to three divided doses is an axiom of toxicology. The study of Esposito, Hutchinson, Logan, Morell, Paquette, Ribelin, Stewart, and Woolston, discussed below, most clearly exemplifies the applicability of the axiom in this matter. As the daily dose was increased in that study to approximate that recommended in the labeling, more severe adverse reactions were observed. The affidavit of Dr. Williams (Exhibit 14, at 3) suggests that at least 3 days are necessary for restoration of cholinesterase activity, although Cyanamid has submitted no evidence on the rate of this reversibility under the recommended conditions of Proban's use.

Moreover, in this case, only one dog actually received 10 mg/kg/day as a single dose for 3 days. Nevertheless, Cyanamid contends that "standing alone, (this) is certainly evidence that the drug is nontoxic enough for OTC use." (Req. at 22.) The fallacy of this argument is apparent on its face, and the Commissioner rejects the premise that one animal administered a drug at three times the recommended dose for 3 days conclusively demonstrates that drug's safety for OTC use.

In the next treatment group, 25 mg cythioate/kg of body weight/day for 3 to 5 days, cythioate proved fatal to one of four treated dogs. Cyanamid contends this cumulative exposure is "some 23 times the recommended dose," yet a single 25-mg/kg dose is only approximately 7.6 times Proban's recommended dose. Cyanamid concedes that various side effects were observed as the dosage exposure increased, but argues these reactions are to be expected. (Req. at 22.) The Commissioner rejects the premise that death of the target animals is the only toxic reaction that merits restrictive use of the drug. Cyanamid concedes the potentiality for harm from the drug is shown in this study despite the few animals tested. The Commissioner must also note that Cyanamid argues that no controls are necessary because any unusual reaction is attributable to administration of the drug. (Req. at 24–25.) This overstates the statements of its expert. Moreover, the only expert to directly address the issue, Dr. Williams, indicates only that separate control animals are unnecessary for dermal irritation tests, which are irrelevant to showing Proban's safety for OTC use in this case. (Affidavit of Dr. Williams at 6.) But using this rationale, the death of the dog in the second treatment group obviously should be directly attributed to administration of cythioate. At that point Cyanamid contends that the death is an anomaly. Studies of this type conclusively demonstrate the need for a control group. In the absence of a control group the Commissioner cannot reach a conclusion that the death of the dog was an anomaly and not the result of drug effect.

Cyanamid also apparently has misunderstood the need for conducting studies in the final dosage form because its request notes, "the Director says that studies using the active ingredient alone are invalid * * *" (Req. at 24.) Rather, the Director stated that the Grosse and Rohrbacher Study No. 1 was conducted with an unformulated, technical grade of cythioate, not the proposed marketed formulation of Proban. The sponsor maintains that the so-called innocuous diluents used in preparation of the commercially marketed dosage form will not influence the safety assessment; however, the evidence in the Series I field trials vividly refute this. (See paragraph D.4. clinical reports below.) In that series of trials, the diethyl succinate component was replaced with polyethylene glycol 400 dioleate because the dogs refused to eat the treated food or vomited; thus the drug sponsor acknowledges the need for tests of the final dosage form, particularly where the drug is intended for unrestricted use.

No clinical pathology, including cholinesterase level determinations, was performed. The request, however, implies that the methods to identify pathologic changes are unnecessary in studies evaluating an organophosphate (Proban), and Cyanamid attempts to justify this position by quoting a phrase from the Director that pathologic changes associated with organophosphate poisoning are usually minimal and nonspecific.

This certainly does not excuse the failure to measure pathologic changes caused by cythioate. Although the pathologic changes associated with acute poisoning by organophosphate are usually minimal and nonspecific, pathological changes do occur; in fact, pulmonary edema and congestion are ordinarily present. (See Ref. 7 of notice at 41 FR 51084.) Furthermore, the Esposito, et al., study demonstrates that cythioate can cause pathological changes in dogs,

e.g., renal collecting tubule lipidosis, renal microcalculi, decreases in hematocrit and hemoglobin values, pronounced reductions in erythrocyte and plasma cholinesterase activities, etc.

Cyanamid's argument on this first Grosse and Rohrbacher study is based on fundamental misconceptions about toxicity testing. Controls are necessary, and if one argues they are not, logic compels the conclusion that the fatal toxic reactions are due to administration of the drug. Moreover, the observation techniques are inadequate by contemporary standards, i.e., the sponsor failed to utilize comprehensive methods to identify pathologic changes induced by administration of the drug that are necessary to demonstrate affirmatively the drug's safety for OTC use. Accordingly, the Commissioner concludes that despite the small test animal population the study demonstrates that Proban is toxic under certain conditions and may be unsafe for use without the supervision of a veterinarian. There are no genuine factual issues about this study.

McNerney Study. In this study of 21 dogs divided into 7 groups of 3, a single dose of Proban was administered to dogs in combination with another organophosphate or phenothiazine tranquilizer. One and one-half times the recommended dose of each drug was given. From the results of this study, the Director concluded that Proban is unsafe for OTC use and may also be unsafe when administered in conjunction with other organophosphates or tranquilizers.

In its request, Cyanamid cites Dr. Schaffer (Exhibit 19), who states that the effects observed were "relatively slight." (Req. at 28.) None of the dogs was "physically disabled," and the studies "did not produce potentiation of acute toxicity." (Req. at 29.) For these reasons, "none of the reactions could be classified as severe." (Affidavit of Dr. Williams, Exhibit 14.) Toxic signs were not observed in all test groups, and Cyanamid believes the data give "assurance of safety." (Req. at 28.) In addition, Dr. Williams disputes the Director's use of the term "potentiation" to describe the joint toxic responses seen. (Req. at 30.) Finally, it alleges that even if the Director's conclusions were correct, they are an inadequate justification for refusing to approve Proban for OTC use. (Id.)

The Commissioner agrees that the term "potentiation" was inappropriately used in the notice. Descriptions of the combined effects of drugs are often ambiguous because the terms "addition," "summation," "synergism," "potentiation," and "antagonism" are not employed consistently and some have imprecise quantitative connotations (Goodman, L. and A. Gilman, "The Pharmacological Basis of Therapeutics," p. 36, MacMillan Publishing Co., Inc., New York, 5th Ed., 1975). Whether called "joint toxic action," "potentiation," "additive effect," or another semantic term, however, this study was intended to reveal whether cythioate produced more severe adverse reactions when given in conjunction with other organophosphates and phenothiazine tranquilizers than the administration of cythioate alone.

All three animals given Proban-acepromazine maleate exhibited signs of conjunctival injection or diarrhea; similarly, all three dogs receiving Proban-Tranvet exhibited one or more of the following: Conjunctival injection, diarrhea, tremors, salivation, and emesis. One of three dogs given Proban-Kemic Pet Spray was observed to be hyperactive; signs of intoxication for a second dog included depression and lacrimation secretion. The Proban-Trilafon group produced lethargy in all treated animals. Finally, two of the three dogs in both the Proban-Dipofene and Proban-Malathion groups exhibited diarrhea.

Thus, adverse reactions were observed with six out of the seven test groups in which one dose of Proban was administered at 1.5X the recommended dosage in conjunction with another organophosphate or a phenothiazine tranquilizer also given at 1.5X the recommended dosage. In addition, an extraordinary number of the total test animal population (15/21) adversely reacted in this study. No control animals were used. No animals served as untreated controls; no animals received Proban alone; and no animals received any one of the other seven tested drugs individually.

Cyanamid's contention that these observed adverse reactions were not severe is based on the affidavit of Dr. Williams and Dr. Shaffer. Although they contend the observed signs may not be sufficiently severe to cause concern, at least to a toxicologist, there is no dispute as to their occurrence. Furthermore, as previously noted, Cyanamid's experts admit that the basic data source is dubious since few animals were tested and the test involved one-time administration of the drugs.

On its face, the study's design fails to meet contemporary standards. The Commissioner agrees that no dogs died, but he rejects this as the sole criterion for determining whether drugs are safe for OTC use in animals. Excessive adverse reactions indisputably occurred. Their severity is apparent, and they may be harbingers of even more severe adverse reactions in the future. From this, the Commissioner can only conclude that the various drug combinations demonstrate a potential for harm, but he cannot measure the contribution of each individual drug to that potentiality for harm. For these reasons, the Commissioner must conclude that there is no genuine issue of material fact about the results of this study.

Finally, although Cyanamid alleges in its request for hearing (Req. at 29) that interactions are not likely to occur if the label directions are followed, the request and Proban's labeling acknowledge the need for judicious use of the drug. Toxic signs are often subtle. Laypersons lack the professional acumen to attach the proper significance to early central nervous system (CNS) stimulation, depression, abnormal behavior, lethargy, etc. Moreover, they lack the ability to make differential diagnoses and distinguish signs of cythioate toxicity from that attributable to numerous other sources. Accordingly, the Commissioner concludes that this study clearly demonstrates Proban's potentiality for harm and patently fails to raise any genuine factual issue about its potential safety for OTC use.

Acute toxicity studies provide some useful information about a drug's toxicity, and the Commissioner's evaluation of the limited acute studies and supporting affidavits submitted demonstrates that Proban is toxic under certain conditions of use. Moreover, the toxicity may be enhanced by other neurologically active drugs, including organophosphates. In accordance with section 512(d)(2)(B) of the act, therefore, the Commissioner concludes that Cyanamid has failed to demonstrate that Proban is safe for OTC use; the information demonstrates Proban's potentiality for harm. Even further, this evidence shows that Proban may be unsafe for such use.

2. *Short-term toxicity studies.* Short-term toxicity studies are tests of normally less than a 90-day duration, and they are useful to determine a compound's toxicity when it is administered for brief periods. Evidence from these studies permits estimates of the drug's short-term potential for harm although they obviously provide only supportive evidence about harm from long-term use. Cyanamid submitted the following short-term toxicity studies:

Grosse and Rohrbacher Study No. 2. For the reasons set forth in the notice, the Director concluded that this study is inadequate to demonstrate that long-term OTC use of Proban at the level of 3.3 mg/kg of body weight is safe. In his opinion, this study again demonstrates that Proban is toxic and has not been shown to be safe for OTC use.

Cyanamid acknowledges that this study was intended to demonstrate that the drug is effective for the control of fleas, and Cyanamid concedes that it was not designed primarily to determine the toxicity to the host animal. For this reason, Cyanamid's independent expert admits that the data are sparse. (Affidavit of Williams at 3.) Because no controls were used, as Cyanamid suggests, any reaction must be considered a toxic reaction.

Again, Cyanamid alleges that toxicity of the drug taken on a daily basis in small doses is more stressful than administration of higher doses periodically, citing the affidavit of Dr. Williams. (Req. at 36.) However, these data demonstrate that as the doses of the drug were increased, the toxic reactions, which must be attributed to administration of the drug since no control animals were used, increased. For this reason, the Commissioner must conclude that the drug's toxicity is dose-related.

Moreover, the results of this study dispute the sponsor's related contention in the request that any effects from the use of the drug are completely reversible. In th only dog receiving 10 mg/kg/day, the final erythrocyte cholinesterase value determined 22 days after cessation of treatment was less than one-half the normal values recorded from pretreatment samples secured from other animals in this study. No pretreatment values were obtained on this animal, nor were values obtained during treatment.

Finally, Cyanamid has submitted no evidence to support the contention that the toxic effects of the technical grade drug will be the same as those from the final dosage form.

For all of the foregoing reasons, the Commissioner concludes that Cyanamid has raised no genuine issue of material fact about this study, and he concurs with the Director's assessment.

Wang and Colavita Study. The principal information obtained from the study concerned feed consumption of animals treated with cythioate. From the observations, the Director concluded that treated animals consumed less food than control animals. Decreased food consumption is a significant adverse reaction that is characteristic of organophosphate toxicity. In addition, gross observations for clinical signs of toxicity showed that at least one of the eight animals used in the test exhibited a patent sign of organophosphate toxicity, namely, vomiting. Although there were no signficant differences in body weight after 10 weeks, the Commissioner attributes this to the fact that the amount of food given to the control group was lowered after 3 weeks to an amount significantly below their consumption during those first 3 weeks. The new level successfully prevented the control dogs from eating more than the dogs on drugs.

The Director rejected this study as dispositive of questions of safety or potential for harm from OTC use of Proban. On the contrary, he concluded that the study failed to demonstrate that Proban is safe for OTC use because when the data were construed in the best light for Cyanamid, he was unable to determine whether Proban is safe for OTC use.

In its request, Cyanamid disputed the Director's conclusions as to the significance of the vomition and the data related to food consumption. The sponsor stated that, "this one instance of emesis cannot be considered evidence of a toxic effect of the drug, nor would any responsible statistician establish any significance to that fact." (Req. at 39.) But the firm does not disagree that vomiting is a patent sign of organophosphate toxicity. In fact, the Harr Affidavit (Exhibit 16) refers to "[t]he signs of anorexia and vomiting characteristic of intoxication with proban * * *" and to "the tendency of signs of vomiting and anorexia to limit intake * * *" Also, in referring to the reported adverse effects in Australia, Dr. Harr states that "these reported adverse effects were as expected from intoxication with organic phosphate compounds." The Director previously noted that vomiting was one of those reported reactions. (41 FR 51083.) And, one of the sponsor's own acute toxicity studies—Grosse and Rohrbacher Study No. 1—confirms the fact that vomiting is an indication of poisoning by the specific organophosphorus compound at issue, cythioate.

While vomition was a factor considered by the Director, the request for hearing incorrectly states that "the Director apparently bases his entire analysis (and statistical treatment) upon one dog * * *" (Req. at 38). An evaluation of the food consumption data was an important element among the considerations leading to the conclusions stated in the notice, and data pertaining to food consumption were obtained on all dogs in the study. Refusal to eat is an adverse effect, but Cyanamid seeks to minimize the significance of the data on food consumption by employing subtle, interchangeable references to food consumption and weight gain/loss. (See, e.g. Req. at 39.) These two parameters are separate entities and must be viewed as such. As the Director acknowledged in the notice, there were no significant differences after 10 weeks in body weight when the treated and control animals were compared. However, serious questions with respect to food consumption were raised but not resolved by the modifications made in the design of the study as well as by the data yielded by the study. The medicated group consumed significantly ($p < .06$ and $p < .02$, respectively) less food than the control group during the second and third weeks of the study,[1] as listed below:

[1] Cyanamid contends that the Director referred only to 4th week data in citing differences in food consumption. This is incorrect. Differences in food consumption were evidenced in the second and third week after medication was begun. Also, all dogs were fed unmedicated feed for 1 week which may explain Cyanamid's reference to the 4th week.

Average daily feed consumption in grams

	Week of treatment										
	-1	1	2	3	4	5	6	7	8	9	10
Control 1/	387	397	395 2/	405 3/	292	277	308	329	329	344	312
Proban 1/	386	399	349 2/	341 3/	296	296	317	320	336	336	319
Amount offered.	500	500	500	500	300	300	350	350	350	350	350

1/ Three males and three females per group. (The two pups in each group are not included because they were not fed ad lib.)

2/ Significantly different at the .06 level of probability.

3/ Significantly different at the .02 level of probability.

After the 3d week of medication the basic ration was altered, and the daily amount fed to adult dogs was reduced from 500 g/day to 300 g/day. By decreasing the amount of feed offered from 500 g to 300 g per day (which was less than the average consumption of the Proban-treated group) during the 4th and 5th weeks of treatment and then increasing the amount offered to 350 g during the 6th through 10th treatment week, Cyanamid negated any conclusions that could be made concerning body weights and feed consumption after the 3d treatment week. Moreover, reducing the amount of feed offered eliminated for all practical purposes the probability of demonstrating a statistically significant difference in feed intake after 10 weeks between the control and treated groups, although the following chart showing the feed consumption of each dog demonstrates more of a difference between control dogs and dogs on drug than the preceding chart showing average consumption:

	Daily feed consumption in grams				
	Week of treatment				
	6	7	8	9	10
Control 1/					
M	342	350	350	350	350
M	291	297	301	330	242
M	342	350	350	350	350
F	342	350	350	350	350
F	342	350	350	350	350
F	187	276	274	333	228
Proban 1/					
M	307	350	350	350	350
M	342	340	344	334	350
M	342	325	337	350	344
F	342	298	350	350	324
F	289	304	338	326	316
F	281	305	295	306	231
Amount offered	350	350	350	350	350

1/ Three males and three females in each group. (The two pups in each group are not included because they were fed ad lib)

The only reason given by Cyanamid in the supplemental NADA was "irregular daily feed consumption," but this is not supported by analysis of the daily feed intake data. The standard deviations of the daily feed intake were not significantly greater during the first 3 treatment weeks than during the pretreatment week. Therefore, the Commissioner cannot conclude that the feed intake was irregular and that the amount offered should have been reduced.

The only valid conclusion concerning feed intake and body weights that can be made from this study is that after 3 weeks of treatment with Proban feed intake was significantly ($p<0.02$) depressed when compared to control treatment, a clear sign of intoxication and potential for harm.

Finally, the Wang and Colavita study did not include any monitoring of clinical laboratory pathology including cholinesterase value measurements. The Commission reemphasizes the Director's conclusion that monitoring of clinical laboratory pathology is essential, and that cholinesterase determinations are an important diagnostic aid in determining if an animal has experienced harmful exposure to organophosphate compounds.

Cyanamid has not disputed two material facts associated with the study. First, although it contends that food consumption was not the primary parameter of the study, the sponsor does not dispute the relevancy of food consumption and body weight. Indeed, its decision to record data on these parameters is an admission of their relevance. Nor did the sponsor dispute the Director's observation that food consumption was lower in the early weeks of the study for the medicated group. Second, the sponsor does not address the implication of the quantitative change in the diet for the reliability of the results with respect to food consumption and body weight, and that this quantitative change invalidates the usefulness of the study in showing that Proban has no effect on body weight and food consumption. Based on the foregoing analysis of the short-term toxicity tests, the Commissioner concludes that there are no material issues of fact in dispute. The manner in which the studies were conducted raised questions about Proban's toxicity and potential for harm for which no evidence has been submitted to resolve. Therefore, the Commissioner concludes in accordance with section 512(d) (1) (B) and (2)(B) of the act that the studies do not show that Proban is safe for OTC use.

3. *Long-term studies in the test species.* Chronic toxicity studies are necessary to evaluate the test animals' long-term exposure or response to a drug. This is especially necessary for a drug such as Proban that may be used continuously in some parts of the country. Chronic toxicity studies in the target species evaluate the potential for toxicity and other adverse reactions in the target species and its offspring. They seek to resolve questions such as drug interactions, teratogenicity, sterility, geriatric complications, and other issues that may be associated with the long-term use.

In the notice, the Director concluded that Cyanamid had failed to submit a chronic toxicity study of sufficient duration using Proban in the target animal or in any other test animals that have been shown to be appropriate. The Director concluded, in the absence of these data for Proban, that Cyanamid failed to submit evidence by all reasonably applicable tests to demonstrate that Proban is safe for OTC use in dogs as required by section 512(d)(1)(A) of the act.

In its request, Cyanamid states that "FDA, to our knowledge, has never required long-term studies for companion animals"; that "long-term studies are only used to assess the potential toxicity of drugs or their metabolites to human consumers"; and that "their usefulness in household pets has never been clearly established." (Req. at 42–43.)

Under section 512(d)(1)(A) of the act, Cyanamid must demonstrate Proban's safety by adequate tests by all methods reasonably applicable regardless of the species for which the drug is targeted; moreover, the duration of such studies is dependent upon conditions prescribed, recommended, or suggested in the proposed labeling. Proban is proposed for control of fleas on dogs, without a specific duration of therapy. The etiology of flea infestation in dogs indicates that long-term use of the drug may result. In this case, the OTC use of Proban may be cyclical, or it may occur year-round depending on the locale. For example, a clinician in Hialeah, Fla., who participated in the field trials which Cyanamid submitted in support of its original application, wrote: "* * * our problem is year round * * *" Given these possible conditions of use, the Commissioner concludes that the request for long-term studies is not just reasonable, but is clearly necessary. Further, wherever proposed conditions of use for new ani-

mal drugs indicate the necessity for conducting long-term studies to confirm safety and/or effectiveness, such studies are, in fact, presently being required by BVM. While the company's request has asserted that long-term studies are not required for determining whether Proban is safe for OTC use, this assertion is not supported by statements contained in any of the affidavits of its experts.

Cyanamid also contends that the Director, by recommending studies that are at least twice the duration of the intended use, would require that studies run at least two lifetimes. (Req. at 44.) Cyanamid contends that the study it submitted, being 6 months in length, was long enough. In the absence of a specific limitation on the period of Proban's proposed use, the Commissioner concludes a study that is at least 2 years in length would be necessary to determine whether or not Proban is safe for OTC use. Cyanamid has failed to provide data from a study of this minimum acceptable length.

Esposito, Hutchinson, Logan, Morell, Paquette, Ribelin, Stewart, and Woolston Study. Twenty dogs were divided into four treatment groups and a negative control group, and each treatment group received cythioate in 250 grams of dry dog food per day for 6 months.

The Director concluded that the study not only failed to demonstrate that Proban is safe for OTC use in dogs, but it also demonstrated that the cythioate exhibits a clear potential for harm unless used under the supervision of a veterinarian.

In responding to the notice, Cyanamid disputed the Director's conclusions as to the use of unformulated cythioate, the frequency of administration, and the occurrence and significance of clinical observations and laboratory measurements at various levels of administration.

The request implies that the fact that this study was conducted with unformulated cythioate, not the finally proposed formulation of Proban, makes no difference (Req. at 46), and elsewhere, Cyanamid maintains that the so-called diluents used in the preparation of the commercial form would have not influence on the results. The Commissioner again notes that this argument is directly contradicted by information in the Series I field trials, where refusal of treated food or vomition prompted the sponsor to change inactive ingredients in the product's formulation. This is a demonstration that diluents, carriers, excipients, etc., can and do make a distinct difference in the product's safety; Cyanamid has submitted no evidence to rebut this fact.

As for the significance of frequency of administration, Cyanamid contends that "'daily dietary administration for an extended period of time is 'more vigorous' than that which would occur upon the normal recommended application.'" (Req. at 46 citing Affidavit of Dr. Williams.) However, Cyanamid has submitted no evidence to substantiate this broad generalization. The study submitted by Cyanamid incorporates both lower and higher dose levels and more frequent administration than the proposed conditions of Proban's use. There is no basis from this study to contravene the fundamental principle that the toxicity is correlated as much with frequency of administration as with dose level.

The request for hearing also discusses the relationship between frequency of dosing and cholinesterase activity: "Since the dosing pattern on the proposed level for Proban recommends 2 doses per week, the time between doses would allow time for these cholinesterase activity effects to reverse themselves * * *." (Req. at 49.) No data are provided to support this statement, however. No studies submitted by Cyanamid demonstrate the existence of a 3-day reversal pattern. To the contrary, the only information concerning reversal trends was acquired 2 weeks post treatment, not 3 days. In this instance, animals previously fed 30 ppm (1 mg cythioate/kg/day) showed a minimal mean increase of 2.5 percent for erythrocyte and an average increase of 16 percent for plasma cholinesterase activity during the 2-week interval. This clearly demonstrates that the animals did not revert to their pretreatment cholinesterase levels.

As for the effects of cythioate at the various dosage levels, the request for hearing states that after the dosage in the highest dosed group was lowered from 300 ppm (10.7 mg/kg daily) to 200 ppm (6.5 mg/kg daily), "very few, if any, adverse effects were observed." (Req. at 46.) That position is contradicted in the very next paragraph: "It is true that a few adverse effects were seen at the highest dosage given. However, this is to be expected * * *." The Commissioner concludes that the adverse effects shown were neither few nor demonstrated to be insignificant. All dogs at this treatment level exhibited frequent muscular tremors and renal microcalculi, and all males had low testes weights. The request for hearing states that there was no adverse effect on organ weight. (Req. at 47.) However, Report No. 65-43 (p. 126), prepared by the sponsor, states the following under Organ Weight at Autopsy: "No statistical evaluation was undertaken because of the small number of observations. The 2 high level males had relatively low testes weights, * * *" Further, both the erythrocyte and plasma cholinesterase activities were markedly and rapidly inhibited after 1 week of feeding, and they remained at low levels throughout the treatment period. Compared with the pretreatment levels, the dogs retained, on the average, only 5 percent of the erythrocyte cholinesterase activity; therefore, there was a 95 percent reduction in erythrocyte cholinesterase activity.

Indications of this kind demonstrate that the control mechanisms of the body are being altered by the drug, and a distinct potential for harm from the drug exists. Interpreting the data in the light most favorable to Cyanamid cannot lead to the conclusion that the drug is safe, in view of the small number of animals involved. The adverse reactions observed, therefore, raise serious questions that cannot be answered by the study because the design is defective.

The request for hearing states that no effects from use of the drug were noted "at the lower levels," those below 200 ppm (6.5 mg/kg/day) (Req. at 46), but this statement is incorrect. At the 45 ppm level (1.5 mg/kg daily), a lowering of the erythrocyte cholinesterase activity was detected after only 3 weeks. The plasma cholinesterase activity was reduced after 3 weeks and became progressively more so. Moreover, there was renal collecting tubule lipidosis in 1 of 4 animals treated, focal engorgement of the spleen in 2 of 4 animals treated, and elevation of the plasma alkaline phosphatase in 1 of 4 animals studied at this (45 ppm) level. There were also statistically significant decreases in hematocrit and hemoglobin values. Although no pretreatment control brain tissue was assayed, at 31 weeks of treatment the sponsor calculated that the brain tissue had less than 50 percent of normal brain cholinesterase activity. The significance of these observations is emphasized by the fact that a single dose at 45 ppm is less than ½ the single dose recommended on the labeling; 3 consecutive days at this level is only 1.26× dosage.

Cyanamid suggests that the notice contained no discussion of the two lowest dosed groups of dogs (15 and 30 ppm, 0.5 mg/kg and 1.0 mg/kg) because there was a "total lack of any evidence of toxicity ever being observed in either group throughout the entire 6 months of the study. Other than a very slight drop in blood cholinesterase levels, no other effect was seen." (Req. at 52.) Again, these statements are incorrect. After 5 weeks of treatment at the lowest dosage level (15 ppm, which is 0.5 mg/kg/day and well below the proposed labeling dosage), 1 male had 26 percent reduction in erythrocyte cholinesterase activity and 34 percent reduction in plasma cholinesterase activity. Thus, the phrase "very slight" is not adequate to characterize or provide an accurate description of the decreases in blood cholinesterase levels. Furthermore, there was an indication that a trend of declining enzyme activities developed at the 15 ppm level, and persisted during the remainder of the treatment period. Also, all treated groups, including those at 15 and 30 ppm, experienced a higher incidence of diarrhea than the controls; diarrhea is one of the clinical signs of systemic toxicity of organophosphate compounds.

The request for hearing contends that the Director "makes several observations which are without any scientific basis," referring to data regarding focal enlargement of the spleen, plasma alkaline phosphatase levels, and hematocrit and hemoglobin values. (Req. at 49–50.) Cyanamid attributes the findings of focal enlargement of the spleen in the two animals receiving 45 ppm dose (3 day cumulative 1.26 × labeling dosage) to "incomplete exsanguination" and unequivocally states they were "not significant."

There are, in fact, disease states which can cause splenic congestion, and one cause of local stasis in dogs is toxemic diseases. Circulatory disturbances, including congestion of the spleen, are important, frequently encountered phenomena which result from restricted venous outflow from the speed. One cause of this condition is paralysis of the splanchnic nerve. Organophosphates (including cythioate) characteristically affect the functioning of the nervous system. The Commissioner concludes that the enlargement of the spleen could well have been caused by the use of Proban.

In the notice of opportunity for hearing, the Director stated that "elevation of the plasma alkaline phosphatase occurred in one of two animals treated" at 45 ppm. Cyanamid contends these numbers are in error and further that the elevated value means nothing. (Req. at 50.) The notice referred to a specific segment of the population tested, i.e., one of two females treated at 45 ppm. As discussed above, results of this kind raise serious questions about the safety of the drug for OTC use, questions that are not resolved by the study because the small number of animals does not permit statistical analysis as to the significance of the findings.

The request for hearing also attempts to generate a factual issue from the following statement of the Director: "There were also significant decreases in the hematocrit and hemoglobin values." (Req. at 51.) However, the statement is factually correct. It is taken directly from the chart appearing on page 215 of Report No. 65-43, dated May 6, 1965. In that chart, an asterisk appears by any group which revealed a "statistically significant difference from mean of control group." Asterisks appear next to the hematocrit and hemoglobin values obtained from the group receiving 15 and 200 ppm level of the drug. Thus, by the sponsor's own accounting, statistically significant differences in hematocrit and hemoglobin values occurred in 2 out of 4 treated groups. The Commissioner concludes that this finding supports the conclusion that the drug has not been shown to be safe.

Next, Cyanamid disputes the Director's statements and conclusions with respect to cholinesterase values. In discussing the significance of the effect on cholinesterase levels in this study, the request for hearing contains self-contradictory statements. For example, Cyanamid states that the purpose of this study at the 3 lower doses was to determine the highest level which would not severely inhibit blood or brain cholinesterase activity. (Req. at 45.) This statement demonstrates that the sponsor considered cholinesterase determinations to be useful in evaluating the toxicity of cythioate. However, several attempts are made elsewhere in the request for hearing to discredit the validity of cholinesterase determinations as a means of identifying and estimating the impact of exposure to cythioate. For instance, earlier in the request (Req. at 26), Cyanamid noted "the blood cholinesterase values as sought by the Director would have very little, if any, usefulness in determining whether Proban is safe enough for OTC use." The Commissioner reiterates his support of the statment in the notice that cholinesterase values are an important aid in determining if an animal has experience exposure to a cholinesterase inhibitor.

By affidavit of Dr. Harr, Cyanamid contends "it is well recognized that cholinesterase depression has to be extensive before symptoms of toxicity appear." (Req. at 48.) But Cyanamid does not dispute the fact that these decreases occurred; in an attempt to minimize the changes that did occur, Cyanamid discusses only selected portions of the data. For example, at page 48 of the request, Dr. Williams' Affidavit is quoted as stating, "Erythrocyte and plasma cholinesterase determinations showed no changes from pretreatment values until the fifth week of daily Proban administration at the 15 and 30 ppm levels." However, Dr. Williams failed to mention that a trend of declining cholinesterase enzyme activities developed at the lowest treatment level (15 ppm), which persisted during the remainder of the treatment period. The reduction in erythrocyte cholinesterase levels for the 30 ppm group also continued throughout the feeding period. In analyzing these data, it is also important to note that both the 15 and 30 ppm single dose levels are below the proposed labeling dose.

Finally, Cyanamid attempts to avoid the salient issues related to the determination of brain tissue cholinesterase values, which are a significant indicator of organophosphate toxicity. Although the notice cited the sponsor's calculation that the brain tissue had less than 50 percent of normal brain cholinesterase activity, the study apparently had no control values, i.e., no values were provided as a point of reference for a comparison with the brain cholinesterase values obtained from treated animals. The request for hearing refers to the Director's statement that "no pretreatment brain tissue was assayed" as "incomprehensible" and further alleges "no standard procedure would recommend skull trephining and a brain biopsy for cholinesterase determinations." (Req. at 49.) But this response misses the point of the statement. The Director obviously did not recommend skull trephining and brain biopsy for cholinesterase determination on the test animals that were to receive the active drug. He simply stated that the sponsor should have established standards or mean reference values by obtaining these values from a portion of the control animals, or from other animals, prior to conducting the study.

From this comprehensive review, it is apparent that no genuine issue of material fact exists about this study. When the evidence is given the interpretation most favorable to Cyanamid, the Commissioner must conclude that Cyanamid has failed to submit the long-term tests that are reasonably applicable to show that Proban will be safe for OTC use in dogs. The study submitted has patently failed to show that Propan is safe for any potentially long-term OTC use. Actually, it raises strong indications of toxicity that Cyanamid has not rebutted and supports the finding that Proban's use requires the direction of a veterinarian. In addition, Cyanamid has failed to demonstrate the adequacy or applicability of this study to prove that Proban is safe for OTC use. In the absence of a long-term study, the sponsor has attempted to rebut the agency's authority to require such a study without providing any alternative contravening scientific evidence. For these two reasons, the Commissioner once again concludes that Proban has not been shown to be safe for OTC use.

4. *Clinical reports*—a. *First Series.*—In the notice, the Director severely criticized reports that were received from 40 of 82 veterinarians who, beginning in the fall of 1963, were sent a cythioate product for evaluation. The recommended dose was 0.72 mg/lb (1.58 mg of cythioate/kg of body weight) every 3 days for 1 to 32 weeks, which is approximately ½ of the dose now proposed for OTC use.

Cyanamid submitted no evidence to explain and resolve the articulated deficiencies with the clinical trial observations; moreover, the affidavits of its experts admit the studies are inadequate. Consequently, the firm attacks the numbers cited in the notice in an attempt to imply that a factual, albeit a transparent dispute, exists. Cyanamid in effect disputes the total number of dogs the Director contended were treated with ½ strength version of Proban, contending that 251 were actually treated. Then it attacks the calculated adverse reaction rates. (Req. at 53.)

The Director's calculation of the number of dogs administered the drug was derived from the Proban NADA file. The jacket contains three separate documents citing the total number of animals for which reports on the animals treated were received. All were prepared by the sponsor, and all cite the same number, 210, as the number of viable case reports from the clinical use of cythioate liquid in dogs in the tested formulation which, of course, is not Proban.

Dr. Robert L. Burkhart, an employee of the sponsor, prepared a "Summary of the Field Evaluation" which lists 210 usable case reports on dogs. The Summary Sheet (Table E-1 in that submission) of field reports prepared and submitted by the sponsor also lists 210 dogs receiving a liquid form of cythioate. Finally, Tables E-2, 3, 4 and 5 in that submission provide individual documentation of the cases received from the reporting veterinarians in their clinical trials. Again, these tables list the number of viable case reports at 210. The Director's intensive review of the data gleaned a report of three additional cases from another veterinarian (Dr. McClumpha) in which treated dogs exhibited toxic signs. These were excluded from the aforementioned analysis. The exclusion of these three reports of toxicity is unjustified in an evaluation of the drug's safety, particularly because the investigator, in a letter to the sponsor, expressly cited this ½ strength form of

Proban as the source of toxicity and terminated its administration.

To reach the figure asserted in the request for hearing (251 case reports), the sponsor has relied on case reports that the sponsor previously considered unusable or that were found in another NADA which covered cythioate tablets, a different dosage form. The additional case reports were gathered from a source that suffers from the same deficiencies as the series of clinical trials now under discussion. Moreover, the sponsor submitted no basis for comparing the responses seen from the animals given the tablets with the response from animals given the liquid form or with the actual drug product in question, Proban.

The sponsor next asserts that the Director improperly calculated the adverse reaction rates. The sponsor contends that 13, not 14, adverse reactions were reported in the study. The Commissioner, however, notes that 11 adverse reactions were listed in the sponsor's summaries of this study; those 11, plus the three adverse reactions that were inappropriately excluded, makes a total of 14. Accordingly, the Commissioner agrees with the Director that the observed adverse reaction rate is at least 14/213 (6.57 percent).

The request maintains that the reported toxic reactions were all "rated as light" and "none was adjudged of any higher degree of harm." (Req. at 56, 88.) This is an inaccurate characterization of the data. For example, in all three cases received from one clinician, Dr. McClumpha, the adverse reactions were so pronounced that use of the drug was discontinued. Another clinician, Dr. Thompson, reported the occurrence of ataxia severe enough to require a 3- to 4-week recovery period.

Finally, the sponsor alleges that the Director lumped the true toxic reactions with groups of dogs that refused feed merely in an attempt to raise the toxicity percentage. (Req. at 53.) The sponsor's original summaries of this study, however, listed failure to consume the feed as an observation to the test product. Although the sponsor now offers post-hoc rationalizations for the failure to consume food, the undisputed fact remains that several reporting veterinarians were sufficiently alarmed to report this and attributed this reaction to use of the cythioate product that is only ½ the strength of Proban. Moreover, several of the studies conducted by Cyanamid used feed consumption as a parameter for measuring toxicity. Given the flawed nature by which the sponsor has gathered the data, the Commissioner must conclude that the study demonstrates cythioate's potential for harm even when the evidence is viewed most favorably to the sponsor. The tested product was ½ the strength of Proban, and the sponsor has presented no evidence to demonstrate a mechanism for favorably extrapolating data between products of different strengths. On the basis of the reported results, cythioate exhibits a distinct potential for harm, and the Commissioner concludes that this clinical trial has clearly demonstrated Proban's potential for harm.

b. *Second series.* In 1966, FDA received clinical reports by veterinarians on Proban's use from another series of observations that were reviewed by the Director. Again, Cyanamid submitted no evidence to remedy the inadequacies that were cited by the Director in his notice about the manner in which the information was collected. Instead, Cyanamid has merely disputed the numbers of reported adverse reactions reported. The sponsor now contends that 152 dogs were treated. (Req. at 55.) As the Director noted, three dosage forms of cythioate were used in the study, and only one was the drug product in question. Cyanamid provides no basis for its revised number, but the Commissioner notes that the NADA contains duplicates on one case report form in the file concerning eight dogs, which would account for the discrepancy. Furthermore, only 46 case reports were received on dogs given liquid Proban.

Also, Cyanamid contends that vomiting is not a per se sign of drug toxicity (Req. at 56); however, Dr. Harr's affidavit (Exhibit 16) refers to anorexia and vomiting as a characteristic of Proban intoxication. Moreover, he later refers to the tendency of vomiting and anorexia to limit food intake.

The Commissioner concludes this study raises serious questions about Proban's toxicity and demonstrates its potentiality for harm that requires its used only on the order of a veterinarian.

5. *Tests in other species.* Tests of the drug in nontarget species animals produce indirect safety evidence, and Cyanamid submitted studies with cats, kittens, rabbits, and rats in support of its application. The Director analyzed each study in detail, concluding that they provide further evidence of Proban's lethal nature and potential for harm, and further evidence that Proban has not been shown to be safe for OTC use in dogs.

Sass, Burkhart and Colavita short-term toxicity study in cats; Grosse and Rohrbacher Study No. 3 (kittens). The Director concluded that the number of animals in the study by Sass, et al., was too small to permit definite conclusions about the drug's safety; that no control animals were used; and that clinical signs of toxicity may have been demonstrated. He reported that the Grosse and Rohrbacher Study No. 3 involved lethal effects; that the data were scant and anomalous; that no explanation was provided for failure to submit data on some of the test animals; and that the study did not utilize control animals or the final Proban formulation.

Cyanamid did not dispute any of the Director's conclusions as to deficiencies in study design and data reporting. Instead, the sponsor attempts to minimize the significance of the clinical signs that were observed in the studies, studies that the sponsor apparently considers acute toxicity studies. (Req. at 58–59.)

The request states that the data from these studies show that the drug "may be somewhat toxic in cats when administered at the enormously high doses given in Phase I of the first study (ranging from 25X on up) * * *" (Req. at 58.) This understates the toxic reactions caused by cythioate in the Phase I Sass, Burkhart and Colavita study because all treated cats died after five doses or less. Cyanamid refers to doses "ranging from 25X on up," apparently with the intent to extrapolate from the proposed recommended canine dosage. If this were the intent, the lowest single dose used in Phase I portion of the study represented 16.6X the single proposed dose in dogs, not 25X as stated in the request for hearing. More significantly, the sponsor neither provides nor offers to provide data to support the validity of extrapolation to the lower doses or from cats to dogs. Accordingly, there can be no substantial factual issue as to the validity of such extrapolation.

The request also states that "when the dose more nearly approximates the recommended level, very few, if any, toxic effects can be seen." (Req. at 58.) The two lowest levels tested in the Sass, Burkhart, and Colavita study were 12.5 and 6.25 mg/lb of body weight (4.1X proposed single dose for dogs) twice weekly for 12 weeks. At both of these dosage levels, the average daily feed consumption decreased, and the animals became more docile. On this basis, the Commissioner agrees with the Director's conclusion that these may be clinical signs of cythioate toxicity.

In summary, the Commissioner concludes that there can be no genuine issue for hearing as to the sponsor's contention that the cat and kitten studies show that Proban is safe for OTC use in dogs, since Cyanamid did not dispute the Director's conclusions regarding the inadequacies of the study design and data submission. Moreover, despite the deficiencies in the studies, a potential for harm was identified, and the studies thus fail to demonstrate that Proban is safe for OTC use in dogs.

Rabbit study. The Director concluded that this study was deficient because it did not involve the final dosage form, the mechanism of administration for which OTC use of the drug has been requested, or control animals. He also noted that the rating system was subjective, but that the study shows that cythioate is potentially toxic when administered topically to rabbits.

In its response, Cyanamid disputes several facts about the doses given by quoting Dr. Williams who stated: "[t]he actual facts are that the 10 rabbits received 5 ml/kg * * * or approximately 75 mg/kg. Each ml of the Proban formulation contains 15 mg. of compound." (Req. at 59.) But both calculations were incorrect. The study was actually not conducted with the currently proposed Proban formulation (15 mg/ml) which would correspond to 75 mg of cythioate/kg. The formulation used provides only approximately half that amount, or 36 mg/kg (7.2 mg/ml).

The request for hearing states "there were no signs of intoxication, no skin irritation, and no mortalities." (Id.) Again, this is also incorrect since the highest dermal dose was reported to be "slightly toxic" by the investigator. The request for hearing states that "* * * the eye irritation tests revealed no irritant effects on the cornea, iria, or conjunctivae in 72 hours * * *" (Id.) Although this is true, the higher dosage produced graded conjunctivae reactions of 3.3 at 24 hours and 0.65 at 48 hours, which indicates irritation. Further, the request for hearing states that the notice "seemingly juxtaposed the Draize skin irritant scores and the eye irritant scores." (Req. at 60.) This observation is incorrect, but if the observation were true it still would have no practical significance.

Cyanamid's contention that the Director must provide a "larger explanation" if he wishes to criticize "this very well-accepted (Draize) test" (Req. at 60) obscures the basic issue. The director did not intend to criticize the Draize test. He intended to, and did, (1) state the factual conditions related to the conduct and results of this study, and (2) point out the limited relevancy of dermal/ophthalmic rabbit studies to a determination of safety of oral application in another species, dogs. Cyanamid provided no evidence to prove the relevancy, and the Commisioner accordingly concludes that the study fails to demonstrate the safety of Proban for oral OTC use in dogs.

Studies in rats. The Director concluded that these studies provide still more evidence of Proban's lethal nature and potential for harm.

Cyanamid's response stated that the Director's analysis of the rat study was erroneous because he misread the data. (Req. at 61.) The sponsor quoted from the affidavit of Dr. Williams, who concluded that the technical product, with an LD_{50} of 160 mg/kg "can be considered a compound of low toxicity." (Req. at 62.)

The following are the correct data on the rat studies: In 4 single oral dosage studies, cythioate was administered to a total of 119 male rats. Groups ranging from 5 to 10 rats received 1 of the following dosages:

(a) 50, 100, 200, and 400 mg/kg of the technical material—Report 64–116;

(b) 625 (not 650 as stated in the notice), 1250, 2500, and 5000 mg/kg of Proban tablets (30 mg)—Report A–74–26;

(c) 1.25, 2.5, 5, 10, and 20 ml/kg (not mg/kg as stated in the notice) of Proban cythioate oral liquid 1.6 percent—Report A–74–26;

(d) 5 ml/kg (not mg/kg as stated in the notice) of CL 26,691 (cythioate) 0.72 percent w/v, Diethyl succinate 6.25 percent, v/v, corn oil q.s. ad 100—Report 64–117.

Thus, the request confuses the formulation used in Report 64–117 with the currently proposed OTC Proban formulation. The alternate formulation used in that study was not the currently proposed Proban formulation; it was ½ strength, or 36 mg cythioate/5 ml. (7.2 mg/ml). Nevertheless, these disputes concern minor facts. Cyanamid does not dispute the observed reactions, and it submitted no evidence to translate the results of the rat studies into evidence showing Proban is safe for OTC use in dogs.

6. *Drug experience reports.* No adverse drug reactions concerning the use of Proban have been reported to the Food and Drug Administration since the NADA was initially approved, but the firm submitted drug experience reports from Australia for cythioate from 1973 and 1974 where the drug is sold by OTC and on a veterinarian's prescription. The Director outlined the basis for his conclusions that these reports failed to show Proban is safe for OTC use.

To rebut this, Cyanamid offers the affidavit of Dr. Black (Exhibit 15). In effect, he argues that the failure to observe and report the adverse reactions in the field demonstrates that Proban is safe for OTC use. Dr. Black agrees that the experimental data are inadequate in terms of numbers, etc. (Affidavits at 1); in his opinion, "the results of its use in the field are a far more accurate index of a drug's safety than laboratory toxicity tests." Since there have been no intoxication reports on Proban use in the United States, Dr. Black believes this dearth of information demonstrates the drug's safety.

Based on the available direct safety evidence, the Commissioner agrees with the Director and must reject Dr. Black's assertion. First, Proban's sales have decreased 85 percent during the past 7 years. The firm attributes this decrease to its not actively promoting Proban during this time. Nonetheless, this decrease reduces the likelihood that adverse reactions will occur and be reported. Next, Dr. Black agrees that adverse reactions have been demonstrated in the clinical tests. The Commissioner agrees with the Director that the nature of many of these adverse reactions is such that they are difficult for the untrained to recognize and associate with Proban use because the adverse reactions are subtle and may lead to severe consequences at a later time. Thus, reliance on warning statements alone concerning potential hazards which appear on "tear-off" or any other labeling for Proban is inadequate. While the layman may be able to recognize such as vomition, he may not attribute those signs to Proban intoxication which may ultimately lead to the animal's death. From the preclinical and clinical evidence, Proban's potentiality for harm is apparent. Finally, the drug has been used under the supervision of a licensed veterinarian in the U.S. for 9 years. The sponsor has not submitted any evidence to demonstrate how the mere failure to observe and report adverse reactions when the drug is used under a veterinarian's supervision overrides the fact that the clinical trials show the drug has a potentiality for harm. The evidence from the field trials of Proban, discussed above, demonstrates an adverse reaction rate of at least 6 to 10 percent. In light of this evidence and the data from direct safety studies, the Commissioner must conclude no material issue of fact has been raised about the absence of adverse reaction reports as it relates to showing Proban's safety for OTC use.

Although inadvertently referred to as Proban in both the request for hearing (Req. at 65–66) and the notice, the drug marketed OTC in Australia is Cyflee, brand of cythioate. Contrary to the implications made in the request for hearing (Req. at 66), the concentration and dosage directions for Cyflee and Proban are not identical. These differences are significant as set forth below. Proban is 1.6% w/w cythioate and is recommended for use at 1 ml/10 lb. of body weight every 3d day or twice a week, with no restrictions on duration of administration. On the other hand, Cyflee is 1.0% w/v cythioate, and the label directions recommend use at 1 ml/11 lb. body weight twice a week for 4 weeks and every other week thereafter. Cyflee is clearly a different and more dilute formulation than that proposed for marketing Proban OTC. Thus, during a 4-week period of administration, a dog given Proban at the highest recommended dosage would receive at least 65 percent more cythioate than a dog given Cyflee. After the 4th week, the difference would be much greater.

At best, drug experience reports imply that the restricted use of Proban in the United States contributes to the absence of adverse drug reactions. Based on the total number of cythioate doses sold, Cyanamid alleges that the true adverse reaction rate in Australia is less than 0.006 percent. This method of calculating adverse reaction rates is scientifically invalid because the Commissioner does not know to what extent adverse reactions occur and go unreported. Nor is there any certainty that doses sold are equivalent to doses administered. The Australian experience does demonstrate that adverse reactions do occur with cythioate use and are sufficient to cause users to seek relief.

In his affidavit, Dr. Black asserts that the extensive experience obtained with the use of cythioate in the USA and Australia over the past several years represent the real test of this drug's safety, but he again fails to address the flaws in these reports as specified by the Director. Moreover, the only OTC use experience is that with Cyflee in Australia which involved a product that differs significantly from Proban in concentration, dose levels, and duration of administration. Cyanamid has submitted no basis by which a valid comparison can be made between the Cyflee and Proban experiences. Thus, the Commissioner concludes that there is no substantial factual issue for resolution because Cyanamid has failed to demonstrate how

such field experience is adequate to show the safety of Proban for OTC use.

E. Other Safety Considerations

1. *Enhancement of toxicity by other drugs.* The Director outlined his concerns of this issue in the notice. Briefly, organophosphates are used widely in the environment as pesticides and in flea collars, and the toxicity of these compounds is likely to be enhanced when more than one is administered as demonstrated by the McNerney study and documented in the literature. Further, adverse reactions have been reported to EPA on organophosphate toxicity associated with flea collars (Refs. 4, 5 and 6 of November 19, 1976 notice), and Cyanamid concedes the potential for enhanced Proban toxicity because the labeling warns against the concurrent use of the drug with insecticides, pesticides, and wormers (some of which have neurological effects).

Cyanamid, however, argues that both the flea collar and Proban labeling contain warnings against concurrent use. Accordingly, it contends any adverse reactions would first require laymen to ignore the label warnings of both products. (Req. at 67–68.) To support this thesis, it has supplied the affidavit of Dr. Harr (Exhibit 16), who suggests that Proban may be safely used since the sponsor can package the drug in child-proof containers. Furthermore, Cyanamid argues that Proban is less toxic than flea collars. (Req. at 68.) For flea collars, the most frequently reported adverse reactions are dermatitis-like. Because Proban is taken internally, Cyanamid contends that the adverse reactions that will occur are less significant. In addition Cyanamid alleges that FDA is perpetuating the flea collar monopoly. (Req. at 69.)

Organophosphates are ubiquitous, appearing not only in flea collars but in other forms of pesticides. Cyanamid has totally ignored this latter source of potentiality for harm to the animal. Interactions with pesticides are of particular concern with respect to Proban, whose potential for harmful effect has been observed in animal tests despite the serious deficiencies in the studies. Again, the Commissioner notes that the layman may not attribute adverse reactions to Proban intoxication which may ultimately lead to the animal's death. Moreover, the proposition that laymen can deal with Proban-pesticide interactions is unrealistic. Cyanamid has submitted no evidence to show that laymen can deal with such interactions.

The Commissioner agrees that child-proof containers may provide an additional measure of safety for humans, but the crucial issue in this matter is whether Proban has been shown to be safe for OTC use in dogs. It should be noted that Cyanamid has had the opportunity to package the prescription drug in child-proof containers for several years. The Commissioner agrees that packaging the drug in a child-proof container may reduce the danger to man and suggests that Proban be packaged in this manner. The regulation of this area is vested with the Consumer Product Safety Commission under the provisions of 15 U.S.C. 2079 (Supp. II, 1972). This packaging, however, is irrelevant to the toxicity and potential for harmful effects to animals. Cyanamid has proffered no factual analysis of data it is prepared to prove contradicting the Director's charges. Accordingly, the Commissioner concludes Cyanamid has failed to demonstrate Proban's safety under OTC use.

2. *Restrictions required by stress to the animal.* In its request for hearing, Cyanamid has completely ignored the questions about the safe use of Proban during the dog's gestation (pregnancy). From the sparse numbers of animals treated, and the absence of controls, the Commissioner must conclude that additional evidence about the drug's safety to pregnant bitches is necessary before Proban can be shown to be safe for OTC use. No such evidence has been submitted. Rather, Cyanamid repeats the argument that EPA's approval of dog collars containing other organophosphates for OTC use requires FDA to approve Proban for OTC use, even in the absence of any evidence demonstrating the drug's safety for OTC use. (Req. at 70.) But there is no basis in science or law for such a conclusion.

3. *Potential for harm to humans.* Ignoring the concerns raised in the notice, Cyanamid argues that Proban's labeling is in accordance with 21 CFR 369.9, that the OTC labeling provides superior warning of the drug's potential for harm, and that the public receives more benefit from OTC use of the drug. (Req. at 70.) The sponsor, however, has overlooked one essential element. The act requires that it must submit evidence from adequate tests demonstrating the drug's safety for OTC use. The limited information available shows that the drug is toxic and has a potential for harmful effect. Cyanamid has submitted theories but no experimental evidence counter to the Director's assessment that younger animals are more susceptible to organophosphate toxicity. As a result of the data vacuum, the Commissioner agrees with the Director's assessment.

4. *Antidote.* The Commissioner agrees with Cyanamid that prescription status of an antidote does not per se require prescription status for a drug intended for OTC use. Limiting the distribution of Proban to a veterinarian's order facilitates communication of explicit warnings to the pet owner about the drug's toxicity and the need for its cautious use. Prescription status for the antidote, however, may not materially affect Proban's use. The antidote may be available or made readily available when necessary. The crucial issue is the ability to determine when the antidote is needed. Accordingly, the Commissioner agrees that prescription status of atropine alone is not a sufficient basis for refusing approval for OTC use.

F. Legal Issues

At various points in the request for hearing, Cyanamid has raised several legal issues. For the sake of clarity, the Commissioner has consolidated this discussion below.

1. *Authority to restrict the approved use of Proban to the order of a veterinarian.* On this issue, Cyanamid makes the argument that the Director of BVM has exceeded the authority granted under sections 502, 503, and 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 353, and 360b) by refusing to approve the Proban supplemental NADA for OTC use. First, Cyanamid contends that there is no provision of Federal law that provides for a veterinarian's "prescription" in which are included adequate directions for use. (Req. at 3.) Rather, it seems to allege that a veterinarian is a mere commercial conduit for the sale of animal drugs and does not need to establish a doctor-patient relationship to order use of a drug. The only constraints that are available to the Director on the use of veterinary drugs are labeling directions. "[T]here is little that FDA can do to impose any restriction on what a veterinarian can do. All that the labeling restriction requires is that he (the veterinarian) be the sole person to sell it or to order it for his customers." (Req. at 16.) Again, at page 17:

> The labeling restriction imposed by FDA is a labeling restriction on the sale or order of Proban. It nowhere mandates, nor does FDA have legal authority to mandate a physician-patient relationship between the veterinarian who sells Proban and the dog who ultimately receives it.

Citing *United States* v. *Cockerill*, 366 F. Supp. 856 (S.D. Ill., 1973), Cyanamid contends that only the States have the authority to regulate the practice of veterinary medicine. (Req. at 16.)

If, however, the Director has the authority to restrict the use of an animal drug to a veterinarian's order, Cyanamid argues that Proban may be used safely without the supervision of a veterinarian.

a. *Statutory authority under section 502(f)(1) of the act.* Prior to enactment of the Durham-Humphrey Amendment of 1951 (65 Stat. 648; 21 U.S.C. 353(b)), the Food and Drug Administration restricted the use of certain drugs in man and animals to the order of a physician under section 502(f)(1) of the act, which requires drug labeling to bear adequate directions for use, and an implementing exempting regulation (codified at 21 CFR 201.100 and 201.105). Under this approach, the labeling of certain drugs was required to contain the statement: "Caution—To be used only by or on the prescription of a physician." Because of the dangers incident to the use of these drugs, only this could constitute adequate directions for use; and the Supreme Court has recognized this mechanism for restricting the use of drugs. See *United States* v. *Sullivan*, 332 U.S. 689, 691 n.2 (1949).

Subsequently, in a case decided prior to enactment of the Durham-Humphrey Amendment of 1951, the Ninth Circuit directly affirmed FDA's statutory authority under section 502(f)(1) of the

act and the companion implementing regulations to restrict the sale of a drug to the order of a licensed practitioner:

> A liberal interpretation of the Act, having in mind its background and purposes, requires us to sustain the action of the Administrator on the ground that he was empowered under the statute to exempt by regulation the drugs in question from the requirement that the label bear adequate instructions for use, conditioned upon its bearing an inscription that it be used only on the prescription of a physician. Under such construction, the regulation is not contrary to law, arbitrary, or unreasonable. (*United States* v. *El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (C.A. 9, 1951)).

Moreover, that Congress intended for FDA to retain this authority to restrict the use of certain drugs to the use of a veterinarian's order under section 502(f)(1) of the act is explicitly documented in the legislative history of the Durham-Humphrey Amendment of 1951.

> In limiting prescription drugs to those intended for use by man this new subsection differs from the present law, which refers to prescription drugs to include not only those dispensed on prescription of physicians and dentists, but also those dispensed on prescription of a veterinarian. Under the committee bill, drugs intended for use under the supervision of a veterinarian will not require a prescription, although it will be possible under section 502(f) to exempt such drugs from adequate directions for use if they are to be used by or under the supervision of a veterinarian. In the absence of any exempting regulations, these drugs will be subject to the labeling and dispensing requirements of the act applicable to over-the-counter drugs. S. Rep. No. 946, 82d Cong., 1st Sess., p. 8 (1951).

The Food and Drug Administration has promulgated such an exempting regulation for veterinary drugs at 21 CFR 201.105; thus, the Commissioner concludes that both the legislative history and case law clearly demonstrate FDA's legal authority under section 502(f)(1) of the act to restrict the use of animal drugs to the order of a licensed veterinarian.

b. *Statutory authority under section 512 of the act.* Section 512 of the act (21 U.S.C. 360b) governs the safe and effective use of new animal drugs. Unlike section 505, which covers new human drugs, section 512(d)(2) specifically sets forth factors that are to be considered in determining whether a new animal drug will be safe under its proposed conditions of use. Among the enumerated factors are the following:

> (B) The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substance, (C) safety factors which in the opinion of experts, qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data, and (D) *whether the conditions of use prescribed, recommended or suggested in the proposed labeling are reasonably certain to be followed in practice.* (Emphasis added.)

Additionally, section 512(i) of the act requires the Secretary to publish a notice of approval for a new animal drug application which, upon publication in the FEDERAL REGISTER, becomes effective as a regulation to provide public notice of the conditions for which the drug is approved. This section also identifies several factors that are to be addressed in the regulation which governs the use of an animal drug. Among them are the specific conditions of use under which the drug has been shown to be safe and effective, any other use restrictions, and such other information as the Secretary deems necessary to assure the safe and effective use of such drugs.

Thus, it is apparent from the plain language of the statute that the Director may restrict his approval of a new animal drug to the precise conditions for which it has been shown to be safe and effective, which may include appropriate restrictions on use.

Furthermore, FDA has primary jurisdiction (1) to determine whether an animal drug is new within the meaning of section 201(w) of the act, *Hyson, Westcott, & Dunning, Inc.* v. *Weinberger*, 412 U.S. 609 (1973); *United States* v. *Naremco, Inc.*, 553 F.2d 1138 (C.A. 9, 1977); *United States* v. *An Article of Drugs* * * * *"Entrol-C Medicated,"* 362 F. Supp. 424 (S.D. Cal., 1973), aff'd., 513 F.2d 1127 (C.A. 9, 1975); (2) to determine whether that drug has been shown to be safe and effective even under the restricted conditions of use of a veterinarian's order, *Diamond Laboratories, Inc.* v. *Richardson*, 452 F.2d 803 (C.A. 8, 1972); and (3) to restrict the use of a drug to only those conditions of use that have been shown to be safe and effective, *Agri-Tech, Inc.* v. *Richardson*, 482 F.2d 1148 (C.A. 8, 1973).

Finally, the regulations implementing section 512 of the act, 21 CFR 514.1(b)(8) and 514.111, set forth the requirements for evidence that must be submitted to demonstrate a drug is safe and effective for the proposed conditions of use. Accordingly, the Commissioner concludes the statute, case law, and regulations demonstrate that FDA may restrict the use of an animal drug to the order of a licensed veterinarian under section 512 of the act.

c. *FDA's authority to regulate the practice of veterinary medicine.* Cyanamid's reliance on the *Cockerill* case is misplaced in this administrative procedure for several reasons. First, Cockerill involved a criminal prosecution in a Federal district court. Next, FDA must operate on the premise of at least minimal competence and ethics on the part of the veterinary medical practitioner, and complementary State regulation of the field through licensing. But these factors are supplemented by the clear statutory procedure for regulating new animal drugs developed by Congress and recognized by the courts that authorizes FDA to protect the public by regulating labeling and restricting the distribution of these articles as discussed above in paragraph F. 1. See also *United States* v. *An Article of drug* * * * *Diso-Tate*, Civil No. 75-1790 (E.D. La., Sept. 28, 1976), CCH Food, Drug, and Cosmetic Law Reports ¶ 38,086. For these reasons, the Commissioner concludes that the argument based on Cockerill is both irrelevant and moot.

2. *Standards for determining that drugs must be restricted to the order of a veterinarian.* Cyanamid focused on two points in this area: The appropriateness of the standard set forth in 21 CFR 201.105 and the correct interpretation of the applicable case law.

a. *Scope of 21 CFR 201.105.* The only conceivable issue that Cyanamid can raise in this area is that FDA was arbitrary and capricious in establishing toxicity, potentiality for harmful effect, and method of the drug's administration as basic standards for determining whether an animal drug requires a veterinarian's order because these are similar to the standards for human drugs Congress adopted in the Durham-Humphrey Amendment of 1951. But this situation is analogous to that presented in *Pfizer, Inc.* v. *Richardson*, 434 F.2d 536 (C.A. 2, 1970), wherein Judge Friendly concluded that FDA could require adequate and well-controlled investigations as a prerequisite for permitting a hearing on the revocation of an antibiotic regulation under section 507 of the act (21 U.S.C. 357) despite the fact that Congress amended the act in 1962 to require adequate and well-controlled investigations for only new human drugs. See *American Cyanamid Co.* v. *Richardson*, 456 F.2d 509 (C.A. 1, 1971); *Upjohn Co.* v. *Finch*, 422 F.2d 944 (C.A. 6, 1970).

Congress has concluded that FDA can regulate prescription animal drugs on the basis of whether adequate directions for use can be written for the layperson and whether the drug has been shown to be safe for use by the layperson. Both the legislative history and case law demonstrate that the regulatory scheme established under 21 CFR 201.105 satisfies conditions raised by Congress during passage of the Durham-Humphrey Amendment of 1951. Moreover, FDA's authority to promulgate regulations defining or explaining the operative provisions of the act and applying the provisions to particular classes of products has subsequently been uniformly sustained by the courts. See, e.g., *Hynson, Westcott, & Dunning, Inc.* v. *Weinberger, supra; Federation of Homemakers* v. *Schmidt*, 539 F.2d 740 (C.A. D.C., 1976); *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F.2d 688 (C.A. 2, 1975). The long-standing criteria are a reasonable exercise of the agency's authority to interpret the act. See *Udall* v. *Tallman*, 380 U.S. 1 (1965). For these reasons, the Commissioner concludes that toxicity, potentiality for harmful effect, and method of administration are appropriate standards for determining whether an animal drug may be used without a veterinarian's order.

b. *Case law.* For prescription animal drug status to be required, Cyanamid contends the agency must find more than "hypothetical problems" and "transitory side effects," citing *United States* v. *An Article of Drug* * * * *Decholin*, 264 F. Supp. 473 (E.D. Mich., 1967). Cyana-

mid also relies on *Decholin* for the proposition that the ordinary meaning of the word "safe" is that "the immaturity or stupidity of every potential user" need not be considered in assessing whether label directions and precautions are likely to be followed.

While the portions of the *Decholin* opinion relied upon by Cyanamid were accurately quoted, Cyanamid did not fully characterize the opinion as it relates to the issue of prescription-OTC status. Although *Decholin* provides some general principles on the salient issues, the facts of that case completely distinguish it from the matter at hand. *Decholin* was a contested civil seizure action in a United States district court where FDA had the burden of proving the drug's toxicity and potentiality for harm. Also, the drug was already on the market on an OTC basis, and the government conceded that no actual cases or evidence of harm had been attributed to the OTC use of the product. As a result, the court focused its attention on hypotheticals based on affidavits from the government's experts.

The matter before the Commissioner, however, is completely different. It is a refusal to approve a new animal drug application; accordingly, Cyanamid has the burden of first demonstrating that a genuine and substantial issue of fact exists on the demonstration of Proban's safety by adequate tests by all methods reasonably applicable to show that the drug is safe, as set forth in the notice. Then, should a hearing be justified, Cyanamid has the ultimate burden of proof. In addition, actual evidence of Proban's toxicity and potentiality for harm exists from preclinical and clinical tests.

In distinguishing *Decholin*, the United States Court of Appeals for the Second Circuit in *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F.2d 688 (C.A. 2, 1975) stated:

> * * * [The Decholin case] involved an effort by the Government to classify *Decholin* as a prescription drug because there was a possibility that if used in certain ways it could harm. The *Decholin* case is not in point however since there had been no proof at all of toxicity. Here, the appellants do not contest the findings of Vitamin A and D toxicity at least at very high levels. *Id.* at 704, fn. 14.

National Nutritional Foods Ass'n v. *Weinberger, rev'd on other grounds sub nom. National Nutritional Foods Ass'n.* v. *Mathews*, No. 76-6135 (C.A. 2, June 7, 1977). More importantly, even in *Decholin* the court "(did) not feel that even an extensive history of past use of a drug without reported harmful results is enough to automatically put any possible ill-effect into the realm of the purely speculative. Congress never intended that the Government must be able to document a Thalidomide-type tragedy before it can obtain relief." *United States* v. *An Article of Drug* * * * *Decholin, supra*, at 480.

But the *Decholin* court did list factors to be considered in the decision as to whether prescription status is necessary. Among them were (1) the seriousness of the effect likely to result from unsupervised lay use; (2) the circumstances under which actual harm is likely to occur following use of the drug; (3) the immediacy of the harmful consequences; and (4) whether the effects of the drug would produce a noticeable change so that use could be discontinued before real harm occurs. (Id. at 481.)

Further, in *National Nutritional Foods Ass'n* v. *Weinberger*, the court held that the Commissioner could rationally conclude that "prescription use only" should be required even if a drug is unsafe only at levels above that which is recommended in the cautionary labeling:

> We reject petitioners' contention that because the higher dosage levels are not "inherently" unsafe but become unsafe only if used in violation of cautionary labelling they do not qualify as "prescription" drugs within the meaning of section 503(b) of the Act, 21 U.S.C. § 353(b). The broad language of section 503(b)(1)(B) permits consideration of the various factors surrounding the use of a particular drug in determining that it "is not safe for use except under the supervision of" a physician. There was ample evidence before the FDA that Vitamins A and D, when consumed in large quantities over a period of time, can be acutely toxic. It was reasonable for the Commissioner to recognize that the risks of toxicity are increased by over-the-counter availability of readily ingestible, high dosage forms, and therefore he could rationally conclude that these forms have a "potential harmful effect." (512 F. 2d at 704.)

In an earlier case involving the same regulations, *National Nutritional Foods Ass'n* v. *Weinberger*, 366 F. Supp. 1341 (S.D. N.Y., 1973), *aff'd* 491 F. 2d 845 (C.A. 2, 1973), the court also found that the Commissioner need not limit his consideration to the actions of the rational consumer:

> * * * the Commissioner is not required to circumscribe his responsibilities in terms solely of the completely "rational" consumer. He may and he must consider the "potentiality for harmful effect" through excessive use to the merely "average" man and even to the substantial numbers of us who help create the average by falling below it. (Id. at 1346.)

Thus, the court clearly sanctioned the requirement of a substantial margin of safety:

> Both plaintiffs and defendants agree that toxicity exists at some level. Plaintiff's quarrel with the Commissioner is over the dosage point at which some restrictions would become prudent. The Commissioner, however, is not required to set the over-the-counter limit at a maximum which the consumer (be he old, young, weak or strong) might withstand. See *United States* v. *Bodine Products*, 206 F. Supp. 201, 207 (D. Ariz. 1962). A substantial margin of safety probably should—certainly may—be used, at least in a case like this, where it can have only beneficial effects for the Commissioner's paramount subject of health. (Id.)

The Commissioner recognizes that both *Decholin* and the *National Nutritional Foods Ass'n* cases involve the issue of whether human drugs should be sold only on prescription under section 503(b) of the act, but, as noted in paragraph F.1. above, similar standards may and have been imposed for OTC use of animal drugs. Moreover, it is Cyanamid that relies solely on *Decholin* in an attempt to support its position. Furthermore, it is clear that the standards set forth in *Decholin* and *National Nutritional Foods Ass'n* are applicable in a determination of whether an animal drug is safe for OTC use under provisions of section 512 (d) of the act, and whether adequate directions for lay use can be written as provided by section 502(f) of the act. Therefore, the Commissioner concludes that he may consider the following factors in determining whether OTC status is appropriate for Proban: The toxicity of the drug when used at levels higher than the recommended levels; the need for a substantial margin of safety; and the four factors itemized above from *Decholin*. Furthermore, this action is a refusal to approve an NADA. The test data show that Proban is toxic and has a potential for harm, and Cyanamid has the burden of proving Proban's safety for OTC use. The sponsor must present evidence proving the drug will be safe if used by laymen without a veterinarian's order. No evidence raising a substantial issue of fact has been submitted.

3. *FDA can apply the standards set forth in the notice in an adjudication proceeding.* Cyanamid contends that the sole question for a hearing is whether Proban is safe and suitable for consumer use without the intervention of a veterinarian; if there are any genuine issues of fact to be heard, they are to be heard in a hearing setting and presented to an administrative law judge. (Req. at 18.) Because Proban was approved for use only under order of a veterinarian in 1968, Cyanamid now alleges that action translates into a conclusive demonstration that Proban has been shown to be safe for OTC use 9 years later. In effect, Cyanamid argues that, despite the fact that it has requested an expanded use of Proban, FDA must adopt a uniform safety standard for OTC and prescription drugs, retain the same standards of evaluating the safety of drugs that were applicable a decade ago, and not reexamine the basis of the original approval in light of scientific advances. To vary from any of these, Cyanamid contends FDA must proceed either to a hearing or by informal rule making. (Req. at 17–19.)

This action arises because Cyanamid filed a supplemental NADA requesting the approval for the OTC use of Proban. In response to the request the Director was required to completely reevaluate (a) the scientific basis and data that had been previously used to determine whether Proban had been shown to be safe under the restricted conditions of its use and (b) the new evidence that Cyanamid submitted to show that the drug would be safe for OTC use. (Cyanamid concedes that it needs an approved supplemental NADA to market the drug in this manner. (Req. at 11.) As a response to the request for the supple-

ment's approval, the Bureau of Veterinary Medicine completed the difficult task of reviewing and establishing the criteria that are essential to demonstrate that drugs for use in companion animals, in particular organophosphates, are safe for OTC use. The Director issued Cyanamid a notice of opportunity for hearing that identified the genuine issues for resolution by establishing the standards, criteria, and procedures for demonstrating an animal drug is safe for OTC use. Thus, Cyanamid's contention that no reexamination of the criteria to determine whether an animal drug should be OTC or on prescription occurred (Req. at 6) is refuted by the publication of the notice of opportunity for hearing. See, Ames and McCracken, *Framing Regulatory Standards to Avoid Formal Adjudication: The FDA As a Case Study*, 64 Calif. L. Rev. 14 (1976).

Cyanamid also indicates that it never previously received the in-depth critique of its data, but this argument, of course, overlooks the function of the notice of opportunity for hearing. For adjudications, the Federal Food, Drug, and Cosmetic Act, in conjunction with the Administrative Procedures Act, establishes the requirement for due notice and the opportunity for a hearing on the refusal to approve an NADA. But neither the statutes nor due process requires a hearing when no genuine and substantial issue of material fact exists. The agency's notice must provide the opportunity for identification of the issues and a meaningful dialogue on those issues. Before summary adjudication is appropriate, the opportunity to identify material issues of fact must embrace suitable notice of the basis upon which the agency proposes to act summarily.

Here, the Director painstakingly developed a comprehensive, specific notice setting forth his basis for refusing to approve the supplemental NADA and delineating the studies that are necessary to demonstrate that Proban is safe for OTC use. Because this proceeding is not a proposal to withdraw approval of an application, the respondent must do more than assert a dispute with the agency's factual predicate; Cyanamid must demonstrate that it will present evidence from adequate tests to raise material issues about the basic safety questions that must be resolved to demonstrate that Proban is safe for unrestricted use in companion animals.

Cyanamid did not dispute the agency's premarket approval testing standards. (Although it found the need for its long-term study excessive, it provided no basis or evidence for an alternative.) Its experts, on the other hand, agreed that these standards provide a rational contemporary basis for premarket evaluation of a drug's safety. Cyanamid presented no evidence that satisfied the test standards considered by the Director to be necessary to demonstrate Proban is safe for OTC use; it has submitted no evidence even alleging that the standards are unreasonable.

Finally, Cyanamid has undermined its own argument that the tests showing that Proban was safe for restricted use by order of a veterinarian in 1968 should qualify, a decade later, as evidence supporting unrestricted use. The Commissioner agrees with Cyanamid's contention that the same general premarket standards of testing for the basic core of safety data should apply to drugs that are intended for prescription or OTC use, and this is precisely the procedure that the Director outlined in the notice. Cyanamid's argument, however, fails because it seeks to apply untenable scientific standards. The axiom that continued reexamination of data and standards at significant junctures is vital to the administrative process has particular relevancy in the health area. *EDF* v. *EPA*, 510 F. 2d 1292 (C.A. D.C., 1975); *Bell* v. *Goddard*, 366 F. 2d 177 (C.A. 7, 1966).

In this matter data that were used to demonstrate that Proban is safe for restricted use under the standards applicable a decade ago cannot be said to demonstrate its safety for even restricted use under contemporary standards, and Cyanamid's experts generally agree. But Cyanamid has submitted no evidence to support its theory that the absence of reports on adverse reactions of a prescription drug whose use has markedly decreased by 85 percent in 7 years (for whatever reason) constitutes evidence that the drug is safe for unrestricted use in accordance with the procedure outlined in the notice. It has submitted affidavits indicating that the drug, under restricted conditions of use, has produced no reported adverse effects to FDA, and that a different product produced some reports of adverse reactions in Australia. Thus, Cyanamid has presented no evidence showing that the absence of these reports presents an issue of fact that requires a hearing for resolution.

4. *EPA registration of flea collars containing organophosphates.* Cyanamid states that EPA has approved registration for use of organophosphates in flea collars and strips, that the side effects and antidotes are the same for these products as for Proban, and that OTC sale is permitted for these products. (Req. at 4–5.) In so stating, Cyanamid appears to imply that the Director's decision to disapprove the supplemental application for Proban is arbitrary since it is inconsistent with the prior decisions made by EPA.

Initially, the Commissioner notes that, contrary to Cyanamid's claim, the precautions and directions for the flea collars whose labels were provided by Cyanamid are not as detailed as those proposed for Proban. More fundamentally, however, three factors distinguish the EPA and FDA actions. First, the two agencies are responsible for administering two different licensing statutes, and each statute involves different purposes and different risk/benefit calculations. Second, none of the flea collars approved by EPA, which are cited by Cyanamid, contain cythioate. Third, the two products—flea collars and Proban—involve completely different conditions of use.

To understand fully the relationships between the responsibilities of the two agencies with respect to products intended for control of fleas, it is helpful to review briefly the regulatory history. On September 6, 1973 (38 FR 24233), the two agencies published a revision to a Memorandum of Understanding (MOU) originally published on December 22, 1971 (36 FR 24234). The 1973 notice stated that where a pesticide is used for "treatments that are administered orally or parenterally for control of fleas (or other external parasites)," the substance would be considered both an animal drug and a pesticide, and FDA would have primary jurisdiction over the substance. If a pesticide is used for "treatments for control of fleas that are administered topically," the substance would be regarded solely as a pesticide, and EPA would have primary jurisdiction. However, under provision of the earlier MOU which remained in effect, neither agency would approve a product if the product was not in compliance with the requirements of a law administered by the other. Furthermore, even though under the later notice one agency was given primary jurisdiction, the other could require that its administrative requirements be fulfilled (e.g., registration by EPA, approval by FDA).

The foregoing agreements prevailed until section 2(w) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) was amended on November 28, 1975 (Pub. L. No. 94–140, 89 Stat. 751), to state that the term "pesticide" does not include "* * * any article (1)(a) that is a 'new animal drug' within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act * * *"; therefore, new animal drugs are no longer within the scope of FIFRA.

To implement the provisions of the FIFRA amendment, EPA is terminating the registration for any uses of pesticides that place such products within the definition of new animal drugs. For the purpose of transferring all such products to its sole authority, FDA (in cooperation with EPA) is compiling a list of products currently registered as pesticides with EPA and covered by an approved NADA. A partial list of such substances was published on June 29, 1976 (41 FR 26734). Included in the list was Proban oral liquid 1.6 percent (cythioate), subject of NADA No. 33–606 and EPA Reg. No. 241–274.

Thus, the Commissioner previously approved the use of Proban as a new animal drug, subject to the restriction that it be sold only on a prescription basis, its status as a new animal drug is unchanged despite the amendment of FIFRA. Therefore, sole jurisdiction over Proban obviously now rests with FDA. Historically, FDA did not consider pesticides incorporated in flea collars to be new animal drugs, and the agency did not attempt to exercise jurisdiction over these articles because they were being regulated by EPA.

The EPA decision to register organophosphates for use with flea collars was based on a decision by the Administrator

of EPA that, among other things, such use will not cause unreasonable adverse effects on the environment. 7 U.S.C. 136a (c)(5) (1972). "Unreasonable adverse effects on the environment" is defined by 7 U.S.C. 136(bb) to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." It should also be noted that, under provision of FIFRA as amended, EPA will be required to re-register every pesticide not registered, and will subsequently be required to renew each registration every 5 years. Re-registration and renewal will be accomplished utilizing "Criteria for Determinations of Unreasonable Adverse Effects," 40 CFR 126.11, criteria which are more stringent than those previously used, especially for pesticides used in the home environment. Among other things, chronic testing may be required for pesticides that did not previously undergo such testing.

It is apparent the risk/benefit calculation required by FIFRA for pesticides differs in focus and concept from the statutory standards that the Commissioner is required to apply to drugs under the Federal Food, Drug, and Cosmetic Act. The statutory mandate to the Commissioner is to determine safety for use principally to the target animals and man under the conditions prescribed, recommended, or suggested in the drug's labeling. Therefore, different risk/benefit considerations apply, and the Commissioner concludes that the occurrence of different decisions by the two agencies is not unreasonable, especially where, as here, factual differences are involved.

The second factor that is sufficient to justify different decisions by different (or even the same) regulatory agencies relates to the fact that none of the flea collars cited by Cyanamid contain cythioate, the active ingredient in Proban. The Commissioner concludes, therefore, that there exists no substantial basis for comparison between Proban and flea collars with respect to relative safety.

This conclusion is buttressed by a third factor that is sufficient to justify different decisions by the two agencies—differences between the conditions for use for Proban and the organophosphates used in flea collars. Proban is used internally; flea collars are worn externally. The potential health hazard (for the animal) is much greater using oral administration of Proban (which involves an internal mechanism of action) than with organophosphates used in flea collars (external mechanism of action). Accordingly, despite Cyanamid's claim to the contrary, more stringent controls are needed with Proban. The Commissioner concludes, therefore, that the registration by EPA of organophosphate-containing flea collars used not require him to approve the supplemental application for Proban.

G. Conclusions

Under section 512(d) of the act, Cyanamid has the burden of proving that Proban is safe, and further that Proban is safe for OTC use without a veterinarian's order. To satisfy the statutory requirements, the sponsor must submit investigations by all methods reasonably applicable to show that Proban is safe for OTC use. These investigations must show that the drug is nontoxic and without a potentiality for harmful effect under the proposed conditions of use, and that adequate directions for its safe use by laymen can be written (sections 502 (b)(1), 512(d)(1), and (2); 21 CFR 201.-105). The Commissioner finds that Cyanamid has failed to satisfy any of these statutory requirements and is, thus, refusing to approve the supplemental NADA requesting OTC use of Proban for control of fleas on dogs.

Cyanamid has failed to submit the long-term toxicity tests that are necessary to demonstrate Proban's safety for long-term OTC use in dogs. The sponsor submitted no evidence that provides the information that must be gleaned from a long-term study and no basis by which the material submitted can be used to provide such information. The sponsor questioned the need for a long-term study but provided neither data nor affidavits to support this contention. Its affidavits questioned the length of the long-term study, but no data are provided to support the contention that the 6-month study that was submitted was long enough. Further, the 6-month study by Esposito, et al., was scientifically defective because it did not simulate the conditions of use—e.g., unformulated cythioate was used; the drug was given daily, etc.—and for other reasons that were discussed in-depth both in the notice and above in this order. No factual evidence was submitted to rebut (a) the deficiencies in the study directly addressed by the Director and (b) the questions about the safety of the drug raised by the other tests as to the need for studies involving the final formulation at the recommended dose frequency. Both were clearly addressed in the notice. Accordingly, the Commissioner concludes that Cyanamid has failed to raise a genuine and substantial fact issue in the requirement for a long-term study.

Cyanamid has also failed to submit adequate studies that measure the short-term effects of the drug for OTC use in dogs. The Grosse and Rohrbacher Study No. 2 did not use the final formulation, used an inadequate number of test animals, did not incorporate controls, and used a daily dosage instead of the dosage frequency on the proposed label. Cyanamaid's own experts have agreed with the Director that studies designed in this manner are inadequate. These deficiencies were particularized in the Director's notice, and nothing was submitted showing how these constituted adequate studies. Thus, the Commissioner concludes there is no genuine and substantial issue about the invalidity of this study to show the safety of Proban for OTC use. The Wang and Colavita study is also fatally defective because the modification in the amount of basic ration offered the dogs rendered the study useless in showing effects on feed consumption and body weight. Cyanamid did not provide any evidence to justify the modification in the diet; indeed, the Commissioner concludes that the modification is at such flagrant variance with fundamental principles of scientific investigation that no genuine issue could be raised as to the study's lack of validity.

Secondly, the evidence shows that Proban has a demonstrated potential for harmful effect and raises serious questions as to the safety of Proban for OTC use. Furthermore, although the experimental design was less than satisfactory, the McNerney study raised questions about the interactions between Proban and other organophosphates and the potential for harm from these interactions. Because of the invalidity of the designs of the long-term, short-term, and acute toxicity studies submitted by Cyanamid, the Commissioner concludes that the margin of safety for Proban has not been established in accordance with the requirements set forth in the notice of opportunity for hearing (identification of all potential harmful effects, characterization of the intoxication syndrome, and demonstration that the techniques used to monitor the test animals are adequate to quantitate foreseeable harmful effects). Nor has Cyanamid submitted any evidence by which this can be validly shown.

Cyanamid has not submitted a characterization of the drug's intoxication syndrome for the proposed OTC use, which would permit the Commissioner to determine whether the subtle signs of organophosphate toxicity can be detected by laymen before irreversible damage to the animals occurs. On the basis of the limited evidence from the studies now before him, the Commissioner must conclude that such discernment is not feasible. The intoxication syndrome must be characterized on the basis of the use proposed in the labeling, and for these reasons the Commissioner concludes that the studies submitted by Cyanamid are invalid to characterize the drug's intoxication syndrome.

Cyanamid discussed the risk of lethality, which is not the singular element of the margin of safety. It has made no offering to show that lethality alone demonstrates Proban's margin of safety or is the equivalent of the data the Director concluded were necessary. The studies conducted have demonstrated that Proban is toxic and has a distinct potential for harm at relatively low levels; the margin of safety appears to be quite narrow. Consequently, because of the apparently narrow margin of safety associated with Proban, labeling warnings alone are inadequate for its safe OTC use. The drug must be used with extreme caution even when administered pursuant to a veterinarian's order to protect the animal from significant harmful or irreversible toxic effects including death. In each study submitted for the target species, clinical signs of organophosphate intoxication were observed in some of the animals, and these

signs showed detectable toxic effects that presented a risk of harm from the drug. Moreover, subtle clinical signs of toxicity that can lead to the death of the animals may go undetected by the layman and/or may not be attributed to the drug's use by the layman. On these points, the Commissioner must conclude there are no genuine and substantial factual issues remaining for resolution.

Third, when the potential for harm is significant, adequately designed field tests must be conducted to demonstrate that directions for safe use can be written for the proposed OTC use. Among other things, the studies must show that laymen can determine when use of the drug is contraindicated and when the animal exhibits drug-related toxic reactions. In view of the evidence showing that a significant potential for harm exists, such studies are essential. The sponsor has submitted no data from field tests under OTC conditions (i.e., designed to show that adequate directions for safe use can be written), nor has it contested the need for such field tests. Therefore, the Commissioner concludes that no genuine issue that requires a hearing exists with regard to this material fact.

Finally, a determination of a drug's safety requires a risk/benefit assessment. The risks associated with Proban's OTC use appear high; the drug is unquestionably toxic. Approving an NADA for OTC use of Proban will increase the use of the drug in dogs that are under stress and that are exposed to other neurologically active compounds. Logically, this would increase the likelihood of harm to those animals. The Commissioner finds that there are no countervailing benefits from OTC use of the drug that are sufficient to permit him to approve the supplemental NADA. The drug is already available on the order of a veterinarian, and other articles are available for the control of fleas on dogs.

For all of the foregoing reasons, the Commissioner finds:

1. American Cyanamid Co. failed to submit adequate tests by all methods reasonably applicable to show whether or not Proban is safe for OTC use for treatment of fleas on dogs as required by section 512(d)(1)(A) of the act;

2. The results of the tests submitted by American Cyanamid Co. do not show that Proban is safe for that use, which is required by section 512(d)(1)(B) of the act;

3. The results of the tests show that Proban is toxic and exhibits a distinct potential for harm even when administered by a veterinarian's order, and a fortiori, by laypersons without the necessary expertise. Also, the sponsor has failed to demonstrate that adequate directions for the drug's safe OTC use can be written for laypersons. On the basis of information about the drug in section 512(d)(2)(B), (C), and (D) of the act, there is inadequate information to determine whether Proban is safe for OTC use in accordance with section 512(d)(1)(D) of the act.

Therefore, the Commissioner, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b)), and under authority delegated to him (21 CFR 5.1), and the findings announced above, hereby denies American Cyanamid Company's request for a hearing and orders the supplemental NADA 33–606 requesting approval for the OTC use of Proban brand of cythioate to be refused, effective September 16, 1977.

Dated: September 8, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-26939 Filed 9-15-77;8:45 am]

Food and Drug Administration

HEALTH CARE AND SERVICES

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming national Ad Hoc Professional Meeting on medical devices to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be at 1 p.m., Wednesday, September 28, 1977.

ADDRESS: The meeting will be held at the Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Alan S. Kaplan, Office of Professional Programs (HFG–15), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–5470.

SUPPLEMENTARY INFORMATION: The theme of the meeting is "The Health Professional and Medical Devices—Safety and Efficacy Through Education." The purpose of the meeting is to exchange views and information of mutual interest relative to medical devices, to identify common problems associated with medical devices that are within the sphere of FDA's responsibility that have an effect on health-care practitioners and/or the delivery of health services, to seek solutions to those problems, and to conduct other activities of similar interest and benefit. The meeting will be open to all interested persons.

Dated: September 12, 1977.

JOSEPH F. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-27070 Filed 9-15-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1977:

Name: Task Force for Review of Departmental Health Reports of the United States National Committee on Vital and Health Statistics.

Date and time: October 11, 1977, 9:00 a.m.

Place: HEW-North Building, Room 3173, 300 Independence Avenue SW., Washington, D.C. 20201.

Status: Open for entire meeting.

Purpose: The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS), are charged under section 306 of the Public Health Service Act, as amended, 42 U.S.C. 242k, with the responsibility to collect, analyze, and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and statistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gathering and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consultation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda: The Task Force will review the "Health of the Nation 1976–77," "The Health Statistics Plan," "The Nation's Use of Health Resources," and the "Forward Plan for Health," to submit a report to the United States National Committee on Vital and Health Statistics including recommendations for coordination between these documents.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. James A. Smith, National Center for Health Statistics, Room 2–12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301–436–7122.

* * * * *

Name: United States National Committee on Vital and Health Statistics.

Date and time: October 12–13, 1977, 9:00 a.m.

Place: Snow Room, 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Status: Open for entire meeting.

Purpose: The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS), are charged under section 306 of the Public Health Service Act, as amended, 42 U.S.C. 242k, with the responsibility to collect, analyze, and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological character-

istics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and statistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gatherng and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consultation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda: Agenda items include (1) remarks by Assistant Secretary for Health; (2) Report of task force to prepare annual report of the USNCVHS; (3) remarks by Assistant Director, Office of Policy Development and Planning; (4) Report on Cooperative Health Statistics Advisory Committee; (5) Report on Health Statistics Section of OMB Framework; (6) Report of Plans for 10th Revision ICD; (7) Report plans for Health—U.S.; (8) Report HR3 and other legislation bearing on health statistics and response to health appropriations request; (9) Progress Report on planning of Public Health Conference on Records and Statistics; (10) Discussion of statistical activities for the Center for Disease Control; (11) Reports on the progress of Technical Consultant Panels (TCP) for: Uniform Hospital Discharge Data Set, Ambulatory Medical Care, Long Term Care, Manpower and Facilities, and National Health Insurance; (12) Report of progress of Department's Uniform Hospital Discharge Data Set; (13) Discussion of proposed TCP for Health Indicators; (14) Discussion of proposed TCP for Uniform Financial Accounts for Hospitals; (15) Report of Organizing Principals for Health Information; (16) Report on Medicaid Management Information System; (17) Report on Mental Health Data Sets; (18) Report on progress of WHO regional office on International Classification of Diseases; and (19) Discussion of Model State Health Statistics Law.

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, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Dated: August 31, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-26647 Filed 9-15-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of September 1977:

Name: National Council on Health Planning and Development.

Date and Time: September 23-24, 1977, 9:00 a.m.

Place: 1st Floor Auditorium, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201

Open for entire meeting.

Purpose. The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda. This meeting of the Council will primarily be devoted to planning the future work schedule: Organization of the Council and Discussion of Election of a Chairperson; Report on Health Planning Program; Report on National Guidelines for Health Planning; Report on Health Technology Issues; Report on Sections 1526 and 1533(d); and Discussion of DOD and VA Health Programs.

The meeting is open to the public for observation. A portion of the meeting will be available for comments and public participation. Anyone wishing to participate obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10-22, Center Building, 3700 East-West Highway, Hyattsville, Md., 20782, Telephone 301-436-7270.

Agenda items are subject to change as priorities dictate.

Date:

CLIFFORD ALLEN,
Deputy Associate Administrator for Operations and Management.

[FR Doc.77-27020 Filed 9-15-77;8:45 am]

Office of Education

GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 601(a) of Title VI of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(a)), applications are being accepted from institutions of higher education for initial grants under the Graduate and Undergraduate International Studies Programs.

A separate Notice of Closing Date is published for applications for continuing grants under the Graduate and Undergraduate International Studies Programs.

Closing Date. November 18, 1977.

A. *Application Forms and Information.* Application forms and program information packages are available and will be mailed upon the publication of this notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications Sent by Mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.435B, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flight, tardy messenger service, or other unforeseen circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 14, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-Delivered Applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program Information.* The amount of funds available for initial grants un-

der the Graduate and Undergraduate International Studies Programs will be approximately $731,000 for Fiscal Year 1978. Under the Graduate International Studies Program, it is expected that five to ten initial grants will be awarded at an average of approximately $40,000. Under the Undergraduate International Studies Program it is expected that ten to sixteen initial grants will be awarded at an average cost of $35,000. Grants for either Graduate or Undergraduate Programs will not exceed $45,000 for a single institution or $70,000 for a consortium.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

E. *For Further Information Contact.* Dr. Richard Thompson, Chief, International Studies Branch, U.S. Office of Education, 7th and D Streets SW., Washington, D.C. 20202. Telephone 202–245–2356.

F. *Applicable Regulations.* Awards pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100–100a) and the regulations for Modern Foreign Language and Area Studies (45 CFR Part 146 published in the FEDERAL REGISTER on May 23, 1977 at 42 FR 26209.

(20 U.S.C. 511.)

(Catalog of Federal Domestic Assistance Number 13.435B; Foreign Language and Area Studies—International Studies Programs.)

Dated: September 13, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-27106 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

TULALIP INDIAN RESERVATION, WASH.

Ordinance Legalizing the Sale of Liquor

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Pub. L. 277 (83d Congress, 1st sess. (67 Stat. 586)), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Tulalip Indian Reservation, Wash., was adopted on June 11, 1977, by Board of Directors of the Tulalip Tribe which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

ORDINANCE NO. 42

AN ORDINANCE GOVERNING SALE, DISTRIBUTION, AND TAXATION OF LIQUOR WITHIN THE EXTERIOR BOUNDARIES OF THE TULALIP INDIAN RESERVATION, ESTABLISHING A BOARD FOR CONTROL AND ADMINISTRATION OF LIQUOR AND REGULATING THE USE THEREOF

The Board of Directors of the Tulalip Tribes of Washington in th exercise of said Tribes jurisdiction within the exterior boundaries of the Tulalip Indian Reservation do hereby promulgate and enact the following liquor ordinance pursuant to the powers vested in it by Article VI, Section 1 (l) and (m) of the Constitution and By-laws of the Tulalip Tribes of Washington and the Act of August 15, 1953, 67 Stat. 586, U.S.C. 1161, as follows:

Section 1. Title: This ordinance shall be known as the Tulalip Liquor Ordinance.

Section 2. Revocation of Prior Ordinances: All Ordinances and Resolutions of the Tulalip Tribes regulating, authorizing, prohibiting or in any wise dealing with the sale of liquor heretofore enacted or now in effect are hereby repealed and of no further force and effect.

Section 3. Definition: "Liquor" means that liquid as at this date defined by the Revised Code of Washington in RCW 66.04.010 (1), (2), (16), (29), and (35).

"Sale" and "sell" means as now defined as set forth by the Revised Code of Washington in RCW 66.04.010(27).

Such definitions are hereby adopted by reference.

Section 4. Prohibitions: The purchase, sale, and dealing in liquor within the exterior boundaries of the Tulalip Indian Reservation by any person, party, firm, or corporation except pursuant to the control and regulations of the Tulalip Liquor Commission hereby established is prohibited and declared unlawful.

Section 5. Retroactivity: The provisions of this ordinance shall be prospective only from the date of its enactment and nothing herein contained shall be deemed to revoke any presently existing valid license or permit or renewal thereof previously issued by the Washington State Liquor Control Board or the exercise of privileges given thereunder.

Section 6. Tulalip Liquor Commission: The Board of Directors of the Tulalip Tribes are hereby constituted as the "Tulalip Liquor Commission" and empowered to administer this ordinance, including general control, management, and supervision of all liquor sales, places of sale, and sales outlets, and to exercise all of the powers and accomplish all of the purposes thereof as hereinafter set forth and may do the following acts and things for and on behalf of and in the name of the Tulalip Tribes of Washington:

(a) To adopt and enforce rules and regulations for the purpose of carrying into effect the provision of this ordinance and the performance of its functions;

(b) Collecting, auditing, and issuing fees, licenses, taxes, and permits;

(c) Purchasing, warehousing, and selling of liquor in the original package;

(d) Executing all contracts, papers, and documents in the name of the Tulalip Tribes of Washington or the Tulalip Liquor Commission.;

(e) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(f) Hiring and firing of employees, fixing their duties, and delegating to such specific powers and authorities;

(g) Paying all customs, duties, excises, charges, and obligations whatsoever related to the business of the Commission;

(h) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

Section 7. Funds—Appropriation: All revenue received, funds collected, and property acquired by the Commission shall be and are the property of the Tulalip Tribes of Washington and the Commission shall annually account for the same to it and pay the net proceeds of its activities into the general fund of the Tulalip Tribes of Washington subject to appropriation by it to the use of the Commission as the tribal board of directors shall see fit.

There is hereby appropriated to the uses and purposes of said Commission from the tribal funds the sum of $15,000.

Section 8. Powers of Commission: The Commission is hereby empowered to establish and operate a Tulalip Liquor Store or stores within the exterior boundaries of the Tulalip Indian Reservation upon tribal property, and not otherwise, and to operate the same and sell liquor thereat for such price as it shall from time to time fix and determine.

Section 9. Excise Tax Levy: There is hereby levied and shall be collected an excise tax upon each sale of liquor, except beer and wine, in whatever package or container, or whether at wholesale or retail, of three (3) cents per fluid ounce or fraction thereof contained in such package or container.

Section 10. Tax on Retail Sale: There is hereby levied and shall be collected a tax upon each retail sale of wine and beer in the original package at the rate equal to five percent (5%) of the selling price, which tax shall be paid by the buyer to the seller who shall collect the same and hold it in trust for payment to the Tulalip Liquor Commission in the same manner and at the same time the seller would be required to pay Washington State Retail Sales Tax pursuant to RCW 82.08.150 to the State of Washington if such tax were applicable, but regardless of whether or not such State tax is applicable. All records and tax returns required to be kept by seller by the State of Washington as if such State Tax were applicable, shall be kept by the Seller and made available for inspection. Such shall be prima facie proof of the amount of tax due and collectable; provided that the provisions of this paragraph requiring records, tax returns and payment of tax to the Commission shall not be applicable to sales made by the Commission.

Section 11. Tax remit: The Commission shall remit to the Treasurer of the Tulalip Tribes on the Twenty-Fifth (25th) day of every month to be deposited in the tribal treasury all monies collected by it in the preceding month by reason of the levy of excise tax. Said tax shall be added to the sale price of liquor sold and be collected from the purchaser thereof. The Commission shall also regularly remit for similar deposit to said Treasurer all retail sales taxes collected by it upon sales of beer and wine.

Section 12. Conformity with the State Law: Nothing herein contained shall be construed to supercede the substantive laws of the State of Washington effective within the exterior boundaries of the Tulalip Indian Reservation and, where not inconsistent herewith, the substantive standards of the criminal laws of the State of Washington regarding sale, consumption and use of liquor shall apply.

Section 13. Servability and Construction: If any clause, part, or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part, or section of this act shall be held to impair the obligation of contract, or to deny to any person any right or protection secured to him by the Constitution of the United States of America, or by the Constitution of the State of Washington it is hereby declared that, had the invalidity of such clause, part, or section been considered at the time of the enactment of this act, the remainder of the act would nevertheless have been adopted without such and any and all such invalid clauses, parts or sections.

Section 14. Effective date: This ordinance shall be and become effective on and after the 11th day of June 1977.

Adopted by the Board of Directors of the Tulalip Tribes of Washington at regular meeting assembled June 11, 1977, with a quorum present by a vote of 6 for and 0 against.

GEORGE W. WILLIAMS.

Approved: June 30, 1977.

DAVID J. L'ESPERANCE,
Acting Superintendent, Western Washington Indian Agency, Everett, Wash.

Attest: Dawn E. Simpson, *Secretary.*

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

AUGUST 31, 1977.

[FR Doc.77-26946 Filed 9-15-77;8:45 am]

[C-25780]

COLORADO

Proposed Withdrawal and Reservation of Lands

The Bureau of Land Mangement, Department of the Interior, on September 9, 1977, filed application, Serial No. Colo. 25780 for withdrawal of the following described lands from settlement, sale location or entry under the general land laws, including the mining laws, 30 U.S.C. Ch 2, but not the mineral leasing laws, subject to valid existing rights.

UTE PRINCIPAL MERIDIAN

T. 1 N., R. 3 W.,
Sec. 13, SW¼SW¼;
Sec. 24, W½NE¼ and NW¼.

The area described contains 280 acres in Mesa County.

The Bureau of Land Management desires that the lands be withdrawn and reserved for the protection of paleontological values.

On or before October 14, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202, on or before October 14, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (1) rejection of the application by the Secretary, (2) withdrawal of the lands by the Secretary, or (3) the expiration of two years from the date of publication of this notice.

All communications in connection with this proposed withdrawal (except public hearing requests) should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

THOMAS N. HARDIN,
Chief, Branch of Adjudication.

[FR Doc.77-26981 Filed 9-15-77;8:45 am]

Geological Survey

COAL LAND CLASSIFICATION ORDER COLORADO NO. 141

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SIXTH PRINCIPAL MERIDIAN, COLORADO

COAL LANDS:

T. 8 N., R. 77 W.,
Sec. 6, lots 6 and 7, E½SW¼, SW¼SE¼;
Sec. 7;
Sec. 8, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 9, SW¼SW¼;
Sec. 15, SW¼SW¼;
Sec. 16, W½NE¼, SE¼NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 17, N½, N½SW¼, SW¼SW¼;
Sec. 18, lots 1 and 2, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 21, N½NE¼, SE¼NE¼;
Sec. 22, W½NW¼.

T. 8 N., R. 78 W.,
Sec. 1, NE¼SW¼, S½SW¼, SE¼;
Sec. 3, lot 17;
Secs. 4 and 5;
Sec. 6, lot 1, SE¼NE¼;
Sec. 8, N½N½;
Sec. 9, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 10, NE¼NE¼, S½NE¼, W½, SE¼;
Sec. 11, SW¼NW¼, SW¼, NW¼SE¼;
Sec. 12, N½, N½SW¼, SE¼;
Sec. 13, NE¼NE¼;
Sec. 14, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 15;
Sec. 16, E½;
Sec. 21, NE¼NE¼;
Sec. 22, N½, NE¼SW¼, N½SE¼;
Sec. 23, N½, N½S½.

T. N., R. 78 W.,
Sec. 5, lots 5 to 9, inclusive, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 6;
Sec. 7, lots 5 to 12, inclusive, lots 14 to 16, inclusive, S½SE¼;
Sec. 8, N½, N½SE¼, SE¼SE¼;
Sec. 9, W½NW¼, SW¼;
Sec. 15, SW¼, S½SE¼;
Sec. 16, W½NE¼, SE¼NE¼, NE¼NW¼, NE¼SE¼;
Sec. 18, NE¼NE¼;
Sec. 19, lot 17;
Sec. 22, NE¼, NE¼NW¼, NW¼SE¼;
Sec. 23, NW¼NW¼;
Sec. 28, S½SE¼;
Sec. 29, lots 4 to 6, inclusive, and lots 11 to 14, inclusive;
Sec. 30, lots 1 to 3, inclusive, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 31, E½E½;
Secs. 32 and 33.

T. 9 N., R. 79 W.,
Sec. 1, lots 5 to 16, inclusive, and lots 18 to 20, inclusive;
Sec. 2, lots 5, 6, 12, and 17;
Sec. 3, lots 7 to 11, inclusive, and lots 13 to 20, inclusive;
Sec. 4;
Sec. 9, N½, NE¼SW¼, SE¼;
Sec. 10;
Sec. 11, S½NE¼, W½, SE¼;
Sec 12, lots 1, 2, 8, and lots 12 to 14, inclusive;
Sec. 13, lots 3 to 7, inclusive, and lots 9 to 13, inclusive;
Sec. 14, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 15, N½, N½S½;
Sec. 16, E½NE¼;
Sec. 23, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 24, W½, SE¼;
Sec. 25, N½, N½SE¼;
Sec. 26, E½NE¼.

T. 10 N., R. 78 W.,
Sec. 30, lots 2 to 4, inclusive, E½SW¼, SW¼SE¼;
Sec. 31, lots 1 to 4, inclusive, NW¼NE¼, S½NE¼, E½W½, SE¼;
Sec. 32, NW¼SW¼.

T. 10 N., R. 79 W.,
Sec. 23, E½, E½W½;
Sec. 24, S½NW¼, SW¼, NW¼SE¼;
Sec. 25, S½NE¼, W½, SE¼;
Sec. 26;
Sec. 27, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 33, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 34, N½NE¼, SE¼NE¼, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 35, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 36.

RECLASSIFIED COAL LAND FROM NONCOAL LAND:

Prior classification of the following subdivisions as noncoal is hereby revoked and the land is reclassified as coal land:

T. 8 N., R. 77 W.,
Sec. 8, NE¼NW¼.
T. 8 N., R. 78 W.,
Sec. 2, lots 5 and 6;
Sec. 3, lots 8, 9, 16, and 18;
Sec. 6, lots 2 to 7, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, NW¼NE¼;
Sec. 24, W½NW¼, NW¼SE¼.
T. 8 N., R. 79 W.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1 to 4, inclusive, S½N½, NE¼SE¼;
Sec. 6, lots 1 to 3, inclusive, SE¼NE¼;
Sec. 9, NE¼, NE¼NW¼, NE¼SE¼;
Sec. 10, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 11, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 12, NW¼NE¼, NW¼, NW¼SW¼.
T. 9 N., R. 78 W.,
Sec. 4, SW¼SW¼;
Sec. 5, SW¼NE¼, NE¼SE¼;
Sec. 7, lot 18;
Sec. 9, SE¼NW¼, SE¼;
Sec. 14, SW¼SW¼;
Sec. 15, W½NW¼, SE¼NW¼, N½SE¼;
Sec. 16, NE¼NE¼;
Sec. 18, lots 3 and 15, NW¼NE¼;
Sec. 20, SE¼NE¼;
Sec. 21, NW¼SW¼;
Sec. 23, NE¼NW¼, NE¼SE¼;
Sec. 24, SW¼SW¼;
Sec. 25, E½NW¼;
Sec. 26, SW¼NW¼, SE¼SW¼;
Sec. 27, NE¼NE¼;
Sec. 28, SW¼NE¼, NE¼SE¼;
Sec. 30, lot 4, SE¼SW¼;
Sec. 31, lots 1 to 4, inclusive, W½E½, E½W½;
Sec. 34, lots 5 and 12 to 14, inclusive;
Sec. 34, lots 1 and 8;
Sec. 36, W½SE¼.
T. 9 N., R. 79 W.,
Sec. 9, NW¼SW¼, SE¼SW¼;
Sec. 16, W½NE¼, NE¼NW¼;
Sec. 19, lot 4, SE¼SW¼, S½SW¼;
Sec. 20, S½S½;
Sec. 21, S½SW¼, SW¼SE¼;
Sec. 25, SW¼, S½SE¼;
Sec. 26, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 27, NW¼NW¼, S½NW¼, S½;
Secs. 28 to 30, inclusive;
Sec. 31, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, SE¼;
Secs. 32 to 36, inclusive.
T. 10 N., R. 78 W.,
Sec. 30, lot 1, SE¼NW¼, NW¼SE¼, SE¼SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, SW¼NW¼, SE¼SW¼.
T. 10 N., R. 79 W.,
Sec. 13, W½SW¼;
Sec. 14, NE¼SE¼, S½SE¼;
Sec. 24, SW¼NE¼, N½NW¼.

The area classified totals 41,586 acres, more or less, of which 29,038 acres are coal land, and 12,548 acres which were formerly classified as noncoal are reclassified as coal land.

Dated: September 9, 1977.

V. E. McKELVEY,
Director.

[FR Doc.77-26945 Filed 9-15-77;8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF, ALASKA

Oil and Gas Lease Sale No. CI, October 27, 1977

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, either in person or by mail, for the oil and gas lease sale on tracts described in paragraph 13 herein, and located in the Outer Continental Shelf adjacent to the State of Alaska. Bids sent by mail should be addressed to P.O. Box 1159, Anchorage, Alaska 99510, and will be received until 9:30 a.m., a.s.t., October 27, 1977. Bids delivered in person to the Manager will be received at his office at 800 A Street, Anchorage, Alaska, until 4 p.m., a.s.t., October 26, 1977, or at the Discovery Room, Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska 99501, between the hours of 8 a.m., a.s.t., and 9:30 a.m., a.s.t., October 27, 1977. Bids received by the Manager later than the times and dates specified above will be returned to the bidders unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., a.s.t., October 27, 1977. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in the FEDERAL REGISTER, 42 FR 18905, April 11, 1977.

3. *Method of Bidding.* A separate bid in a sealed envelope must be submitted for each tract and be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract); not to be opened until 10 a.m., a.s.t., October 27, 1977." A suggested bid format appears in paragraph 17. Bidders are advised that tract numbers are assigned solely for administrative purposes during this sale and are not the same as block numbers found on OCS Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, or by cashiers check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid far less than a full tract described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in a percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR 3302. The form for this statement appears in paragraph 18. Other documents required of bidders are listed under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Royalty Bidding.* Bids on the following tracts must be submitted on a royalty bid basis with a fixed cash bonus as indicated. Leases which may be awarded on a royalty bid basis will provide for a yearly rental or minimum royalty payment of $8 per hectare[1] or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expressed in other ways, it is requested that it be written as it is in the following example: 21.75698%. A suggested royalty bid form is shown in paragraph 17(a).

(a) A fixed cash bonus of $62 per hectare will be required on tracts CI–6, CI–7, CI–10, CI–11, CI–12, CI–13, CI–18, CI–19, CI–20, CI–21, CI–22, CI–27, CI–29, CI–30, CI–36, CI–37, CI–38, CI–39, CI–45, CI–46, CI–73, CI–74, CI–91, CI–92, CI–107, CI–113, CI–115, CI–118, CI–119, CI–121, CI–130, CI–131, CI–132, CI–148, CI–150, and CI–151.

(b) A fixed cash bonus of $124 per hectare will be required on tracts CI–114, CI–120, CI–124, CI–125, and CI–126.

(c) A fixed cash bonus of $433 per hectare will be required on tracts CI–28, CI–82, and CI–147.

(d) A fixed cash bonus of $1483 per hectare will be required on tracts CI–83 and CI–146.

5. *Bonus Bidding.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus bid basis with a fixed royalty of 16⅔ percent. Leases which may be issued will provide for a yearly rental or minimum royalty payment of $8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17(b).

6. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., a.s.t., October 27, 1977, the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140–8 (November 1973), and the Affirmative Action Represenation Form, Form 1140–7 (December 1971).

7. *Bid Opening.* Bids will be opened on October 27, 1977, beginning at 10 a.m., a.s.t., in the Discovery Room, Captain Cook Hotel, at the address stated in paragraph 2. The opening of bids is for the sole purpose of publicly announcing and recording bids received; no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight October 27, 1977, that bid will be returned unopened to the bidder as soon thereafter as possible.

[1] One Hectare equals 2.471 acres.

8. *Deposit of Payments.* Any cash, cashiers checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tracts from this sale prior to the issuance of a written acceptance of a bid for that tract.

10. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) His bid is the highest valid royalty bid on the designated royalty tracts or the highest valid cash bonus bid for the remaining tracts; and

(c) The amount of the bid has been determined to be adequate by the United States.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof on the tracts designated for cash bonus bidding and 12.5 percent or more royalty on the tracts designated for royalty bidding.

11. *Successful Bidders.* Each person who has submitted a bid accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction Diagrams.* The tracts offered for lease described in paragraph 13, may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for $2 each from the Manager, Alaska Outer Continental Shelf Office at the address stated in paragraph 2:

(1) No. 5–1, Iliamna.
(2) No. 5–2, Seldovia.
(3) No. 5–3, Mount Katmai.
(4) No. 5–4, Afognak.

13. *Tract Descriptions.* The tract offered for bid are as follows:

NOTE.—There are gaps in the sequence of the numbers of the tracts listed. Some of the tracts identified in the final environmental impact statement are not included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO 5-2
(Approved March 20, 1975)

Tract	Block	Description	Hectares
CI-2	187	All	2304.00
CI-4	230	All	2304.00
CI-5	231	All	2304.00
CI-6	268	All	2304.00
CI-7	269	All	2304.00
CI-8	274	All	2304.00
CI-9	275	All	2304.00
CI-10	312	All	2304.00
CI-11	313	All	2304.00
CI-12	314	All	2304.00
CI-13	315	All	2304.00
CI-14	318	All	2304.00
CI-15	319	All	2304.00
CI-16	354	All	2304.00
CI-17	355	All	2304.00
CI-18	356	All	2304.00
CI-19	357	All	2304.00
CI-20	358	All	2304.00
CI-21	359	All	2304.00
CI-22	362	All	2304.00
CI-23	363	All	2304.00
CI-24	397	All	2304.00
CI-25	398	All	2304.00
CI-26	399	All	2304.00
CI-27	400	All	2304.00
CI-28	401	All	2304.00
CI-29	402	All	2304.00
CI-30	403	All	2304.00
CI-33	441	All	2304.00
CI-34	442	All	2304.00
CI-35	443	All	2304.00
CI-36	444	All	2304.00
CI-37	445	All	2304.00
CI-38	446	All	2304.00
CI-39	447	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-42	485	All	2304.00
CI-43	486	All	2304.00
CI-44	487	All	2304.00
CI-45	488	All	2304.00
CI-46	489	All	2304.00
CI-47	490	All	2304.00
CI-48	491	All	2304.00
CI-51	529	All	2304.00
CI-52	530	All	2304.00
CI-53	531	All	2304.00
CI-54	532	All	2304.00
CI-55	533	All	2304.00
CI-56	534	All	2304.00
CI-57	535	All	2304.00
CI-60	573	All	2304.00
CI-61	574	All	2304.00
CI-62	575	All	2304.00
CI-63	576	All	2304.00
CI-64	577	All	2304.00
CI-65	578	All	2304.00
CI-66	579	All	2304.00
CI-69	617	All	2304.00
CI-70	618	All	2304.00
CI-71	619	All	2304.00
CI-72	620	All	2304.00
CI-73	621	All	2304.00
CI-74	622	All	2304.00
CI-75	623	All	2304.00
CI-76	624	All	2304.00
CI-78	661	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-79	662	All	2304.00
CI-80	663	All	2304.00
CI-81	664	All	2304.00
CI-82	665	All	2304.00
CI-83	666	All	2304.00
CI-84	667	All	2304.00
CI-85	668	All	2304.00
CI-87	705	All	2304.00
CI-88	706	All	2304.00
CI-89	707	All	2304.00
CI-90	708	All	2304.00
CI-91	709	All	2304.00
CI-92	710	All	2304.00
CI-93	711	All	2304.00
CI-94	712	All	2304.00
CI-96	749	All	2304.00
CI-97	750	All	2304.00
CI-98	751	All	2304.00
CI-99	752	All	2304.00
CI-100	753	All	2304.00
CI-101	754	All	2304.00
CI-102	755	All	2304.00
CI-105	794	All	2304.00
CI-106	795	All	2304.00
CI-107	796	All	2304.00
CI-108	797	All	2304.00
CI-109	798	All	2304.00
CI-110	799	All	2304.00
CI-111	838	All	2304.00
CI-112	839	All	2304.00
CI-113	840	All	2304.00
CI-114	841	All	2304.00
CI-115	842	All	2304.00
CI-116	881	All	2304.00
CI-117	882	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, SELDOVIA NO. 5-2 (contd.)

Tract	Block	Description	Hectares
CI-118	883	All	2304.00
CI-119	884	All	2304.00
CI-120	885	All	2304.00
CI-121	886	All	2304.00
CI-122	925	All	2304.00
CI-123	926	All	2304.00
CI-124	927	All	2304.00
CI-125	928	All	2304.00
CI-126	929	All	2304.00
CI-127	969	All	2304.00
CI-128	970	All	2304.00
CI-129	971	All	2304.00
CI-130	972	All	2304.00
CI-131	1013	All	2304.00
CI-132	1014	All	2304.00
CI-133	1015	All	2304.00
CI-134	1016	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, ILIAMNA NO. 5-1
(Approved March 20, 1975)

Tract	Block	Description	Hectares
CI-135	484	All	2304.00
CI-136	528	All	2304.00
CI-137	571	All	2304.00
CI-138	572	All	2304.00
CI-139	615	All	2304.00
CI-140	616	All	2304.00
CI-141	659	All	2304.00
CI-142	660	All	2304.00
CI-143	703	All	2304.00
CI-144	704	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, MT. KATMAI NO. 5-3
(Approved July 3, 1975)

Tract	Block	Description	Hectares
CI-145	132	All	2304.00

OCS OFFICIAL PROTRACTION DIAGRAM, AFOGNAK NO. 5-4
(Approved July 3, 1975)

Tract	Block	Description	Hectares
CI-146	1	All	2304.00
CI-147	2	All	2304.00
CI-148	3	All	2304.00
CI-149	4	All	2304.00
CI-150	45	All	2304.00
CI-151	46	All	2304.00
CI-152	89	All	2304.00

14. *Lease Terms and Stipulations.* Leases issued as a result of this sale will be on Form 3300-1 (December 1976) available from the Manager, Alaska Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale:

STIPULATION NO. 1

If the Supervisor, having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lesser is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager, Bureau of Land Management (BLM) Outer Continental Shelf (OCS) office for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and the Manager, BLM OCS office for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

STIPULATION NO. 2.

If the Supervisor, having reason to believe that an area of special biological significance may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development of lease areas including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct block-wide or site specific surveys, as approved by the Supervisor, to determine if the block or site contains special biological communities that may be adversely affected by any lease operation. If the surveys indicate the existence of such communities, the lessee shall: (1) establish, to the satisfaction of the Supervisor, that such operation will not have a significant adverse effect on the community identified; or (2) modify his operating procedure to minimize the impact of the operation on the biological community. Such modification could include relocation of the drilling site.

All data obtained in the course of any biological surveys conducted pursuant to the provisions hereof shall be submitted in a report to the Supervisor prior to or with any application by the lessee for drilling or other activity with a copy to the Manager, Alaska OCS Office. Should the Supervisor determine that the existence of a biological resource which may be adversely affected by such operation exists, the lessee shall take no action that may result in any adverse effect on such resource until the Supervisor has given the lessee directions with respect to the resource.

The lessee agrees that, if any communities of special biological significance should be discovered during the conduct of any operations on the leased area, he shall report such findings to the Supervisor, and make every reasonable effort to preserve and protect the resource from damage until the Supervisor has given the lessee directions with respect to the resource.

STIPULATION NO. 3

The lessee shall include in his exploration and development plans submitted under 30 CFR 250.34 a proposed environmental training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the Supervisor pursuant to this stipulation. The program shall be designed to inform each person working on the project of specific types of environmental, social and cultural concerns which relate to the individual's job. The program shall be formulated and implemented by qualified instructors experienced in each pertinent field of study and shall employ effective methods to insure that personnel understand and use techniques necessary to preserve archaeological, geological and biological resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs and lifestyles in areas in which such personnel will be operating.

The lessee shall also submit for review and approval a continuing technical environmental briefing program for supervisory and managerial personnel of the lessee and its agents, contractors and subcontractors.

STIPULATION NO. 4

The lessee must describe in the development plan the proposed method of transportation of production. If the proposed method of transportation would significantly affect the quality of the human environment and the method was not discussed in the Final Cook Inlet Environmental Impact Statement (published in December 1976), a decision on whether to approve the development plan will not be made until the original environmental impact statement is supplemented or a new environmental impact statement is completed on the proposal.

The lessor reserves the right to determine the method of transportation of production, but his decision will be made within the context of a planning program for assessment and management of transportation of OCS oil and gas with the participation of Federal, State and local government and the industry. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. Where it is determined by the lessor to be environmentally, technologically, and economically appropriate, all pipelines, including flow lines and gathering lines for oil and gas shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis. Barging of production may be permitted only in case of emergency or under special circumstances as determined by the Supervisor.

STIPULATION NO. 5

To reduce the impacts of human disturbance (i.e., aircraft and vessel traffic) at major seabird colonies and marine mammal rookeries, boats will be routed to stay at least ½ mile from all colonies and rookeries from May 1 to September 15. In addition, during this period, fixed-wing and rotary aircraft must maintain a ½-mile horizontal and 2500 foot vertical distance from seabird colonies and marine mammal rookeries. The list and geographic locations of major seabird colonies and marine mammal rookeries will be available from the Manager, Alaska OCS Office. The location of any major colonies or rookeries discovered in the future will be submitted to the Manager, Alaska Office, for addition to the present list. Human safety will at all times take precedence over the provisions of this stipulation.

STIPULATION NO. 6

No underwater blasting which involves the use of high velocity explosives may be conducted on any leasehold unless:

(a) The Supervisor determines that such blasting is necessary to protect human safety, fishing equipment, or navigation;

(b) The Supervisor determines that the failure to permit such blasting will result in greater environmental harm and economic costs than the blasting itself; or

(c) The Supervisor determines that such blasting will not pose a risk of significant damage to marine life.

As used in this stipulation, "high velocity explosives" includes any explosive with a burning rate greater than 5000 fps or creating a pressure curve with a sharp spike and a rise time of less than 0.18 milli-seconds.

STIPULATION NO. 7

To assist coastal communities in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to the Governor of the State of Alaska and to local jurisdictions that will be directly affected by those activities a "Notice of Support Activity for the Exploration Program" (called hereafter in this stipulation "Notice"). When the lessee has doubts as to which local jurisdictions shall be informed, he will be guided by the advice of the Supervisor. The lessee shall not be required to include privileged information in the Notice. A lessee shall have discretion whether to submit a separate Notice in connection with each Exploration Plan submitted under 30 CFR 250.34 on a lease or to submit a Notice in connection with two or more Plans on one or more leases. The Notice shall not be subject to approval or disapproval by the Supervisor.

A copy of the Notice shall be submitted to the Supervisor simultaneously with, or prior to, the Exploration Plan with a certification that it has been submitted to the Governor of the State of Alaska and to the local jurisdictions that will be directly affected by activities under the Plan. If the lessee shall submit a Notice in connection with two or more Exploration Plans, he shall not be required to submit additional copies of the Notice, but may instead refer to that previous submission. Before the Supervisor approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governor and local jurisdictions to submit comments on the Notice to him as well as to the lessee. Subsequent to the submission of the certification, significant changes in estimated support activities will be forwarded by the lessee, as an amendment to the Notice to the Supervisor, the Governor, and to the local jurisdictions that will be directly affected by the program.

The Notice shall include with respect to the lessee and his contractors:

(1) A description of the facilities, including site and size, that may be constructed, leased, rented, or otherwise procured in affected areas:

(2) The location and amount of acreage required within the State for facilities, including the need for storage of various supplies;

(3) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the onshore location of terminals;

(4) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, the approximate number of local personnel who are expected to be employed for or in support of the exploration program, and the approximate total number of persons who are expected to be employed for the exploration program;

(5) Estimates of the approximate addition to the population of the local jurisdiction because of the exploration program and the approximate number of persons needing housing and other facilities;

(6) An estimate of any significant quantity of major supplies and equipment to be procured within the State; and

(7) The onshore addresses of the lessee's operation offices and of the offices of contractors involved with the exploratory operation.

STIPULATION NO. 8

Unless the lessee can demonstrate to the satisfaction of the Supervisor that it would not be in the interests of conservation all reservoirs underlying this lease which extend into one or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) and approved by the Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on a method acceptable to him.

STIPULATION NO. 9 (TO BE INCLUDED IN ANY LEASES RESULTING FROM THIS SALE FOR THE ROYALTY BIDDING TRACTS LISTED IN PARAGRAPH 4 OF THIS NOTICE.)

(a) The royalty rate on production saved, removed, or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)), except that the Director, Geological Survey may approve an application for a reduction in royalty on this lease only when it is necessary in order to increase the ultimate recovery of oil and gas and in the interest of conservation. The Director may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in section 3(b)(1) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔ percent of the production saved, removed or sold from the leased area may be taken as royalty in amount, except as provided in section 6(c); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16⅔ percent may only be taken in value of the production saved, removed or sold from the leased area.

15. *Information to Lessees.* The Department of the Interior recognizes the special human and environmental problems of Cook Inlet and expects lessees to work closely with the State and local officials to minimize potential conflicts with commercial fishing and traditional native ways and to minimize the adverse effects of onshore development. In enforcing safety, environmental and conservation laws and regulations, the Supervisor will require the use of the best available and safety technology which the Secretary determines to be economically achievable, and will cooperate with the relevant Federal agencies and the State of Alaska.

The Department of the Interior will seek the advice of the State of Alaska, and other Federal agencies, to identify areas of special concern which might require the burial of pipelines, alternative methods for disposal of drilling muds and formation waters, and the reduction of boat and air traffic.

If nationally recommended routes for boat traffic lanes are established by the Coast Guard, lessees will be required to use them to transport supplies to the lease area.

Tracts CI-2, CI-4, CI-5, CI-8, CI-9, CI-14, CI-15, CI-22, CI-23, CI-76, CI-85, CI-94, CI-96 through CI-102 inclusive, CI-105 through CI-134 inclusive, CI-145 through CI-152 inclusive, are designated as areas of special biological significance. The Supervisor may designate other areas in the future as areas of special biological significance. The effect of exploratory drilling on aquatic biota in such areas will be monitored. Based upon the findings of monitoring operations, alternative methods for disposing of drilling muds and formation waters may be required pursuant to OCS Order No. 7.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Department of the Army permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and for artificial islands and fixed structures located on the Outer Continental Shelf in accordance with section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(f)). Permit applications and inquiries should be directed to the District Engineer, Anchorage District, U.S. Army Corps of Engineers.

Scare techniques will be used to protect bird resources during significant oil pollution incidents. A description of the scare techniques and devices shall be included in the operators oil spill contingency plan required by OCS Order No. 7.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult the Department of Transportation for regulations applicable to offshore pipelines under its jurisdiction.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Alaska OCS Orders, issued effective March 1, 1976, and any other applicable OCS Order, as it becomes effective.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to the Manager, Alaska Outer Continental Shelf Office in the following form:

(a) For the royalty bid tracts as described in Paragraph 4:

OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No.	Percent royalty bid expressed to maximum of 5 decimals	Amount of fixed cash bonus submitted with bid

Proportionate interest of company(s) submitting bid

Qualification file No. YK..... percent .....
Company
.....
Address
.....
Signature (please type signer's name under signature)

(b) All tracts offered for cash bonus bidding:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per hectare	Amount of cash bonus submitted with bid

Proportionate interest of company(s) submitting bid

Qualification file No. YK..... percent .....
Company
.....
Address
.....
Signature (please type signer's name under signature)

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder must execute the following statement before a notary public and submit it with his bid:

JOINT BIDDER'S STATEMENT

I hereby certify that.....(entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Sworn to and subscribed before me this ...day of.....19.....

.....
(Notary Public)

State of.....
(County) of.....

.....
(Signature, please type signer's name under signature)

ROMAN H. KOENINGS,
Acting Associate Director,
Bureau of Land Management.

Approved: September 13, 1977.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc.77-26944 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

CENTRAL VALLEY PROJECT

Tentative Power Rate Adjustments for Central Valley Project, California

On August 15, 1975, the Department of the Interior published in the FEDERAL REGISTER (40 FR 34431), the adopted "Procedures for Public Participation in General Adjustments in Power Rates." Those procedures give interested members of the public an opportunity to take part in the development of power rates.

Rate increases for wholesale electric power sold by the Central Valley Project (CVP), California, are being considered. Increased revenues of approximately 180 percent are needed to eliminate an annual $29 million deficit in meeting current expenses. The final rates will be set by the Department of Energy following a 6-month period of public comment and further review. The rates are to become effective with the first full billing period beginning on or after May 1, 1978.

The unusual size of the increase occurs because increases announced for 1974 and 1977 were set aside by court action on procedural grounds and because costs of purchased thermal power from the Northwest continue to rise sharply.

The tentative proposal includes a demand charge of $2 per kilowatt per month that is calculated to repay power investment with interest and one-half of the irrigation investment. The remaining irrigation investment and all of the operating costs would be recovered through the energy charge. Two alternatives are being considered: A dual energy charge, based on assigning half of the purchased power costs to meeting the 1964 CVP permanent allocations and withdrawable allocations and half to meet contractual commitments to serve the "load growth" of seven customers after 1967; or a single energy charge, based on assigning purchased power costs equally to all customers. Under the first alternative, the "project" energy charge would be about 4.4 mills per kilowatthour, and the "growth energy" charge would be about 21 mills. Under the second alternative, the energy charge to all customers would be about 8.3 mills.

Under the first alternative, the cost of power to customers with fixed or withdrawable allocations, including the Sacramento Municipal Utility District, the city of Santa Clara, irrigation districts, and Federal and State agencies, would increase about 100 percent, and there would be an increase ranging from 200 to 300 percent to the "load growth" customers. The "load growth" customers are the cities of Biggs, Gridley, Palo Alto, Roseville, and Redding, the Plumas-Sierra Rural Electric Cooperative, and the Shasta Dam Area Public Utility District. For the second alternative, the increased cost to all customers would average 180 percent.

The existing rates have been in effect since 1945. They are a capacity charge of $0.75 per kW month and an energy charge in three blocks at 4, 3, and 2 mills per kWh.

The proceeding to adjust CVP rates that was begun on September 4, 1975, has been suspended since March 1976. Because many of the factors used as a basis for that tentative proposal have changed, the Department concluded that a new procedure was required. These changes include, among other things, revision of the charge to the Pacific Gas and Electric Company (PG&E) for Northwest power and charges to CVP by PG&E for transmission service, the court action invalidating the earlier rate increases on procedural grounds, and the effects of inflation on project costs.

The tentative rate increase is based on revenue requirements determined by a new power repayment study. The new repayment study incorporates many of the comments and suggestions received from customers following the September 1975 announcement plus those changes mentioned above.

A report will be mailed to customers and interested parties about September 12, 1977. It will include the basis for the tentative rate changes.

A public information forum is scheduled for Wednesday, October 5, 1977, beginning 9:30 a.m. at:

Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

At this forum, departmental representatives will explain the tentative rates and criteria, answer questions concerning them, and accept comments. An additional information forum may be scheduled if the need is indicated by requests.

Public Comment Forum. The public comment forum is scheduled for Thursday and Friday, November 17 and 18, 1977.

At the public comment forum, interested persons may submit written comments or make oral presentations of their views. Department of Energy representatives will be present and may ask questions. The locations and other details regarding this forum will be made available later.

A transcript of the forums will be made, and copies of the transcript can be purchased by those who request them.

Dated: September 12, 1977.

DANIEL P. BEARD,
Deputy Assistant Secretary of the Interior.

[FR Doc. 77-26992 Filed 9-15-77;8:45 am]

DEPARTMENT OF JUSTICE

FALVEY LINEN SUPPLY, INC.

Proposed Consent Decree (Federal Water Pollution Control Act)

In accordance with departmental policy, 28 C.F.R. § 50.7, 38 Fed. Reg. 19029, notice is hereby given that on August 31, 1977, a proposed consent decree in *United States* v. *Falvey Linen Supply, Inc.*, Civil Action No. 760523, was lodged with the United States District Court for the District of Rhode Island. The proposed consent decree requires a revised system to be installed and working properly by December 30, 1977. There are also penalties if deadlines for construction and reaching operational level are not met.

The Department of Justice will receive until October 17, 1977, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Falvey Linen Supply, Inc.*, DJ Ref. 90-5-1-1-528. The proposed consent decree may be examined at the office of the United States Attorney for the District of Rhode Island, Providence, Rhode Island; at the Region I office of the Environmental Protection Agency, Enforcement Division, John F. Kennedy Federal Building, Boston, Massachusetts; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, 9th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washington, D.C.

JAMES W. MOORMAN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.77-26983 Filed 9-15-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS

Meeting

1. The notice of a meeting of this committee on September 27, 1977, was published in the FEDERAL REGISTER on page 45386, September 9, 1977.

2. Because of the inability of key committee members to appear on September 27, the meeting has been rescheduled for September 28, 1977, at 1:30 p.m. The location and agenda for the meeting are unchanged.

Signed at Washington, D.C., this 14th day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-27171 Filed 9-15-77;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 the 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 12th day of September, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

C877-789	....do.....	Desta Drilling Corp., 2205 Crooked Oak Ct., Arlington, Tex. 76102.
C877-790	....do.....	Perpetual Pipeline of America, Ltd., 764 Oil Hill Rd., El Dorado, Kans. 67042.
C877-791	....do.....	Lillian R. Hollyfield, 911 North 26th St., Arkakelphia, Ark. 71923.
C877-792	....do.....	Walter E. Baily, Box 548, Seminole, Okla. 74868.
C877-793	Aug. 30, 1977	James R. Yoxall, Smith, Greenleaf & Brooks, Liberal, Kans. 67901.
C877-794	....do.....	H. M. Dangherty, Jr., 1 State National Plara, El Paso, Tex. 79991.
C877-795	Aug. 31, 1977	Maury Page Kemp., 1906 State National Plaza, El Paso, Tex. 79901.
C877-796	....do.....	Charles B. Hammond, P.O. Box 179, El Paso, Tex. 79942.
C877-797	....do.....	Lynwood J. Boyer, 1 State National Plaza, El Paso, Tex. 79901.
C877-798	....do.....	David H. Wiggs, Jr., P.O. Drawer 2800, El Paso, Tex. 79999.
C877-799	....do.....	James F. Garner, P.O. Drawer 2800, El Paso, Tex. 79999.
C877-800	....do.....	Joseph P. Hammond. P.O. Drawer 2800, El Paso, Tex. 79999.
C877-801	....do.....	Bassett California Co., P.O. Box 179, El Paso, Tex. 79942.
C877-802	....do.....	Wasp I, a partnership, P.O. Box 2800, El Paso, Tex. 79999.
C877-803	....do.....	John Ellis c/o Henry Ellis, P.O. Box 1072, El Paso, Tex. 79958.
C877-804	Aug. 26, 1977	R. C. McNeill, Route 1, Happy, Tex. 79042.
C877-805	....do.....	Robert L. Miller, 1902 Virginia, Amarillo, Tex.

[FR Doc.77-26792 Filed 9-15-77;8:45 am]

Occupational Safety and Health Administration

SOUTH CAROLINA STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the FEDERAL REGISTER (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that: "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State Plan shall be required." By letter dated December 30, 1976, from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Donald E. MacKenzie, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to OSHA standards 29 CFR Part 1910 and 29 CFR Part 1926, amendments to § 1910.309 and § 1926.400 dated, December 21, 1976; §§ 1910.103 through 1910.1016 dated, August 20, 1976; § 1910.-1029 dated, October 22, 1976; Subpart T Part 1910 dated, November 5, 1976, and § 1926.57 dated October 22, 1976.

These standards were promulgated after public hearings held on December 30, 1976, and by filing with the South Carolina Secretary of State on December 30, 1976, respectively, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standards are identical to the Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, S.C. 29211, Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Ga. 30309; and Office of the Associate Assistant Secretary for Regional Programs, Room N3603, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 16, 1977.

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

Signed at Atlanta, Ga., this 24th day of February 1977.

ALAN C. MCMILLAN,
Acting Regional Administrator.

[FR Doc.77-27046 Filed 9-15-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-60)]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, INFORMAL COMMITTEE ON AERIAL APPLICATIONS TECHNOLOGY

Meeting

An informal Committee on Aerial Applications Technology of the Research and Technology Advisory Council will meet on October 5 and 6, 1977, at the NASA Langley Research Center, Hampton, Va., and October 7, 1977, at the Wallops Flight Center, Wallops Island, Va. The meeting at Langley Research Center will be held in Conference Room 225 of Building 1219. The meeting at Wallops Flight Center will be held in Conference Room 1 of Building E-2. The meetings will be open to the public on a first-come, first-served basis, up to the seating capacity of the rooms, which is about 40 persons. All visitors must report to the Langley Research Center and Wallops Flight Research Center Receptionists.

The informal Committee on Aerial Applications Technology of the Research and Technology Advisory Council is to review the results of the definition phase activities and provide recommendations and comments on the content, scope and pace of the potential NASA programs in Aerial Applications Technology. The Chairman of the committee is Mr. Corwin Meyer.

For further information, please contact Roger L. Winblade (Area Code 202-755-2399) or C. Robert Nysmith, Executive Secretary, Research and Technology

Advisory Council (Area Code 202–755–8550), and NASA Headquarters, Washington, D.C. 20546.

OCTOBER 5, 1977

Time	Topic
9:30 a.m.	Convene.
9:40 a.m.	Welcoming Remarks (Purpose: To officially welcome the members of the Informal Committee on Aerial Applications Technology to the Langley Research Center.)
10 a.m.	Background and Objective of Meeeting (Purpose: To provide the Committee with a chronology of events leading to the development of a potential NASA program in Aerial Applications Technology and define the specific objectives of this meeting.)
10:40 a.m.	Review of Definition Phase Activities (Purpose: To provide the Committee with the results of workshops and study efforts conducted as a prelude to development of the prospective program plan.)
2 p.m.	Status and Review of Preliminary Experimental Efforts (Purpose: To provide the Committee with the results and current status of preliminary experimental tasks undertaken to define technical problems and approaches included in the prospective program plan.)
5:15 p.m.	Summary (Purpose: To provide the Committee with an opportunity to obtain clarification or additional information on presentations.)

OCTOBER 6, 1977

Time	Topic
8:30 a.m.	Convene.
8:40 a.m.	Presentation of prospective NASA Program Plan on Aerial Applications Technology (Purpose: To provide the Committee with a detailed description of the purpose, objective, content, and schedule of each task in the prospective program plan.)
2 p.m.	Industry Review Critique and Recommendations (Purpose: To obtain the comments, criticisms and recommendations from the industry on the prospective program plan.)

OCTOBER 7, 1977

Time	Topic
9 a.m.	Convene.
9:10 a.m.	Welcoming Remarks (Purpose: To officially welcome the members of the Informal Committee on Aerial Applications Technology to the Wallops Flight Center.)
9:30 a.m.	Review of Wallops Flight Center Facilities and Proposed Activities in Aerial Applications Technology (Purpose: To provide the Committee with an opportunity to review the plans for development of a field test and calibration facility at Wallops Flight Center.)
10:30 a.m.	Tour of Wallops Flight Center.
11:30 a.m.	Final Summary and Review of Industry Comments (Purpose: To provide the Committee with an opportunity for presenting concluding remarks.)
12 noon	Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

SEPTEMBER 12, 1977.

[FR Doc.77-26990 Filed 9-15-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on October 3–4, 1977, from 9:00 a.m. to 3:30 p.m., in the Alexandria Hotel, Spring at Fifth Street, Los Angeles, California 90012, and on October 5, 1977, from 9:15 a.m. to 1:30 p.m. and 3:00 p.m. to 5:30 p.m. at the Alexandria Hotel, Spring at Fifth Street, Los Angeles, California 90012 and on October 5, 1977, from 1:30 p.m. to 3:00 p.m. at Music Center Presentations, 135 North Grand Avenue, Los Angeles, CA 90012.

A portion of this meeting will be open to the public on October 3, 1977, from 9:00 a.m. to 3:30 p.m. and on October 5, 1977, from 9:15 a.m. to 5:30 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include Guidelines, Policy and a joint session with the Dance Panel on October 5, 1977 at 5:00 p.m.

The remaining sessions of this meeting on October 4, 1977, from 9:00 a.m. to 3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 624–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26964 Filed 9-15-77;8:45 am]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel (Services to the Field) to the National Council on the Arts, will be held on October 3–4, 1977, from 9:30 a.m. to 7:00 p.m., in Columbia Plaza, Room 1219, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26966 Filed 9-15-77;8:45 am]

MUSEUM ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on October 3, 1977, from 9:00 a.m.

to 4:00 p.m. in The Minneapolis Institute of Arts, 2400 Third Avenue South, Minneapolis, Minn. 55404 and October 4, 1977 from 9:00 a.m. to 4:15 p.m. in the Walker Art Center, Vineland Place, Minneapolis, Minn. 55403.

A portion of this meeting will be open to the public on October 3, 1977, from 9:00 a.m. to 4:00 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of Policy and a question and answer session.

The remaining sessions of this meeting on October 4, 1977, from 9:00 a.m. to 4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 624-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts, and the Humanities.

SEPTEMBER 12, 1977.

[FR Doc.77-26965 Filed 9-15-77;8:45 am]

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts will be held on October 4, 1977, from 10:00 a.m. to 5:30 p.m.; October 5, 1977, from 9:30 a.m. to 7:00 p.m.; and on October 6, 1977, from 9:30 a.m. to 5:30 p.m. in Columbia Plaza, Room 1422, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 4, 1977, from 10:00 a.m. to 12:00 noon, October 5, 1977, from 4:00 p.m. to 7:00 p.m. and October 6, 1977, from 9:30 a.m. to 5:30 p.m. on a space available basis. Accommodations are limited. The agenda for these sessions will include a discussion on Policy.

The remaining sessions of this meeting on October 4, 1977, from 12:00 noon to 5:30 p.m., and October 5, 1977, from 9:30 a.m. to 4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-624-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-27021 Filed 9-15-77;8:45 am]

National Endowment for the Humanities

ADVISORY COMMITTEE, EDUCATION PROGRAMS PANEL

Meeting

SEPTEMBER 12, 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 a.m. to 5:30 p.m. on October 17, 1977.

The purpose of the meeting is to review College Library Grant applications and Development Grant applications submitted to the National Endowment for the Humanities for projects beginning after April 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 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-27044 Filed 9-15-77;8:45 am]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel to the National Council on the Arts will be held on September 21, 1977, from 9 a.m. to 5:30 p.m., in Room 1219, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-27055 Filed 9-15-77;8:45 am]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(c)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel (Aid to Film/Video Exhibition) will be held on October 6, 1977, from 9:30 a.m. to 7 p.m. and on October 7, 1977, from 9:30 a.m. to 3 p.m. in Room 1219, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicant in accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsections (c) (4), (6), and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endow-

ment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77–27056 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, PUBLIC PROGRAMS PANEL

Notice of Meeting

SEPTEMBER 7, 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 Public Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the First Floor Conference Room, from 9 a.m. to 5:30 p.m. on October 11 and 12, 1977.

The purpose of the meeting is to review public media applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after December 1, 1977.

Because the proposed meetings will consider financial information and disclose information of a personal nature, the discussion 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.77–27042 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, PUBLIC PROGRAMS PANEL

Meeting

SEPTEMBER 7, 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 Public Programs Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on October 6, 7, and 8, 1977.

The purpose of the meeting is to review Public Program applications for museums and historical organization projects which were submitted to the National Endowment for the Humanities and which will begin 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 202–724–0368.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77–27043 Filed 9–15–77;8:45 am]

ADVISORY COMMITTEE, RESEARCH GRANTS PANEL

Meeting

SEPTEMBER 9, 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 Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on October 7, 1977.

The purpose of the meeting is to review General Research applications in the field of History submitted to the National Endowment for the Humanities for projects beginning after April 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 202–724–0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77–27045 Filed 9–15–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 13, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, School Breakfast Program Evaluation, single-time, schools, natural resources division, Caywood, D. P., 395–6827.

Agricultural Stabilization and Conservation Service, Storage Contract for Processed Commodities, CCC–29, 29–1, 29–2, 29–3, single-time, warehousemen, Ellett, C. A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Group Practice Efficiency Study Questionnaires, single-time, group medical practices in United States, Richard Eisinger, 395–6140.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census, Tractors (Except Contractor's Off-Highway Type, Garden Tractors and Motor Tillers), MA–35T, annually, manufacturing establishments, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare):

Home Health Agency Survey Report Crucial Data Extract (Medicare), HCFA–1572 E, on occasion, providers and suppliers of medicare/medicaid services, Caywood, D. P. and Warren Topelius, 395–3443.

Hospital Survey Report CDE (Crucial Data Extract) (Medicare), HCFA–1537 E, on occasion, hospitals (nonaccredited), Caywood, D. P. and Warren Topelius, 395–3443.

General Intermediate Care Facility Survey Report Crucial Data Extract (Medicare), HCFA–3070 E, semiannually, intermediate care facilities, Caywood, D. P. and Warren Topelius, 395–3443.

Fire Safety Survey Report Crucial Data Extract (Medicare), HCFA-2786 E, annually, nonaccredited hospitals, skilled nurses, and intermediate care facilities, Caywood, D.P. and Warren Topelius, 395-3443.

Independent Laboratory Survey Report Crucial Data Extract (Medicare), HCFA-1557 E, annually, independent laboratories, Richard Eisinger and Warren Topelius, 395-6140.

Outpatient Physical Therapy-Speech Pathology Survey Report Crucial Data Extract (Medicare), HCFA-1893 E, on occasion, outpatient physical therapy/speech pathology, Caywood, D. P. and Warren Topelius, 395-3443.

Medicare/Medicaid Skilled Nursing Facility Survey Report Crucial Data Extract (Medicare), HCFA-1569 E, annually, skilled nursing facility (medicare/medicaid), Caywood, D. P. and Warren Topelius, 395-3443.

Portable X-Ray Survey Report Crucial Data Extract (Medicare), HCFA-1882 E, on occasion, portable X-ray units, Caywood, D. P. and Warren Topelius, 395-3443.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Dealers Record (Tobacco), MQ-79, on occasion, tobacco dealers, Ellett, C. A., 395-5867.

Statistical Reporting Service, December Enumerative Survey (Livestock Operations), annually, farmers, Ellett, C. A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-27153 Filed 9-15-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 12, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service, An assessment of the use and Potential of Private Lands for Outdoor Recreation, single time, Corporation and noncorporation, Forest and range owners, and Federal agency, Ellett, C. A., 395-5867.

Farmer Cooperative Service, Survey of Coordinated Cooperative Trucking Activities, single time, farmer cooperatives, Strasser, A., 395-5867.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Work Injury Report, BLS-98, single time, workers injured as a result of specified source, Strasser, A., 395-5867.

DEPARTMENT OF TRANSPORTATION

Departmental and Other Questionnaire for Research Project: Improved Regulation of Interstate Transportation of Migrant Workers, single time, migrant workers at selected labor camps, Strasser, A., 395-5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economic Research Service, Survey of Milled Rice Distribution by Rice Millers and Repackagers, annually, all rice milling and repackaging firms in the United States, Ellett, C. A., 395-5867.

DEPARTMENT OF COMMERCE

Maritime Administration:
Vessel Data, Ma-828, on occasion, shipping companies, Stresser, A., 395-5867.
Designation or change of Beneficiary for Second Seamen's War Risk Insurance, MA-269, on occasion, seamen aboard Maritime Administration-owned vessels, Strasser A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Institutional Application to Participate in Federal Student Financial Aid Programs July 1, 1978 to June 30, 1979, OE-1036, annually, post-secondary educational institutions, Laverne v. Collins, 395-5867.
ESEA Title I Comparability Report—Form A, General Information; Form B, Detailed School Data; OE-4524 A and B, annually, LEAS, Lavern, V. Collins, Budget Review Division, 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Report of Production and Disposition (Tobacco), MQ-108, on occasion, tobacco producer, Ellett, C. A., 395-5867.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Digest of Selected Pension Plans, BLS 2714, on occasion, pension plan administrators, Strasser, A., 395-5867.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Record of Transactions of Licensed Customhouse Broker, CF 3079, on occasion, customhouse brokers, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-27154 Filed 9-15-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0331]

FIRST WOMAN'S SMALL BUSINESS INVESTMENT CORP.

Issuance of License To Operate as a Small Business Investment Company

On July 11, 1977, a Notice of Application for a license as a Small Business Investment Company was published in the FEDERAL REGISTER (42 FR 35720) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)) for a license as a small business investment company (SBIC) by First Woman's Small Business Investment Corp., 885 Second Avenue, New York, N.Y. 10017.

Interested parties were given until the close of business July 25, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on August 26, 1977, issued License No. 02/02-0331 to First Woman's Small Business Investment Corp., to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-27006 Filed 9-15-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

IMPORTATION FROM THE EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL MILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Availability of Special Certificates for Imports From Federal Republic of Germany

Special certificates issued under the Certification Agreement between the United States and the Commission of the European Communities are now available for imports from the Federal Republic of Germany of ferrochromium and chromium-bearing steel mill products. Materials shipped after the date of this Notice may only be imported if a special certificate is presented to Customs at the time of entry.

Imports of certifiable materials shipped prior to the date of this Notice may continue to be made under the interim certificates. However, the entry will not be liquidated until the importer presents a special certificate. Such certificate must be obtained from the producer and filed by the importer on or before September 18, 1977, to complete liquidation.

Dated: September 8, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-26999 Filed 9-15-77;8:45 am]

Office of the Secretary

METHYL ALCOHOL FROM BRAZIL

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of methyl alcohol from Brazil are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally means that the prices of the merchandise sold for exportation to the United States are less than the prices of such or similar merchandise sold in the home market. Because there is substantial doubt that an industry is being, or is likely to be, injured as a result of those imports, this case is being referred to the United States International Trade Commission for a determination as to whether or not there is a reasonable indication of injury. If the Commission should find within 30 days that there is no reasonable indication of injury, this investigation will be terminated. Otherwise the investigation will continue to a conclusion.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On August 11, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Celanese Corp., indicating a possibility that methyl alcohol from Brazil is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to, or the likelihood of injury to, or prevention of establishment of an industry in the United States. The petitioner has alleged that its profitability has been in decline since 1974, and the industry is operating at less than 75 percent capacity. However, there is evidence which indicates that U.S. domestic production of methyl alcohol increased from 1975 to 1976. There have been no imports of methyl alcohol from Brazil in two years. The allegation of a likelihood of injury to a domestic industry in this case relates to the sale and future delivery of methyl alcohol to a U.S. purchaser. The sale involves the delivery of a quantity of methyl alcohol which represents less than 0.5 percent of 1976 U.S. production and 1.0 percent of 1976 U.S. sales.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury to, likelihood of injury to, or prevention of establishment of an industry in the United States by virtue of such importation from Brazil. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 13, 1977.

[FR Doc.77-27010 Filed 9-15-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 19 (Sub-No. 35)]

ALLEGHENY & WESTERN RAILWAY CO., ET AL.

Abandonment of Line

AUGUST 31, 1977.

In the matter of Allegheny & Western Railway Co., Buffalo, Rochester & Pittsburgh Railway Co., and the Baltimore & Ohio Railroad Co., abandonment near New Castle, Lawrence County, Pa.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27030 Filed 9-15-77;8:45 am]

[Notice No. 481]

ASSIGNMENT OF HEARINGS

SEPTEMBER 13, 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 113678 (Sub-No. 659), Curtis, Inc., now assigned September 12, 1977, at San Francisco, Calif., is postponed indefinitely.

MC-C-8617, *Arrow Carrier Corp. et al* v. *United Parcel Service, Inc. et al*, now assigned September 27, 1977, at Washington, D.C., is pstponed indefinitely.

MC 104421 (Sub-No. 20), Econolines, Inc., now being assigned November 29, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 117686 (Sub-No. 167), Hirschbach Motor Lines, Inc., now being assigned December 1, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC-F-13153, McCarthy Truck Line, Inc.—Control—(B) East Nebraska Motor Freight, Inc., and (BB) Kruse Transportation Co., Inc., MC 121586 (Sub-No. 2), Kruse Transportation Co., Inc., MC 121540 (Sub-No. 4), East Nebraska Motor Freight, Inc., and MC-F-13168 McCarty Truck Line—Control—Nebraska-Iowa-Missouri Express, Inc., now being assigned December 5, 1977 (1 week), for hearing in Lincoln, Nebr., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27037 Filed 9-15-77;8:45 am]

[AB 123]

CHICAGO PRODUCE TERMINAL CO.

Abandonment of Railroad Operations in Chicago, Ill.

AUGUST 29, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., (2) a notice setting forth this conclusion was served June 28, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice, (3) this proceeding is now ready for further disposition within the

Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27031 Filed 9-15-77;8:45 am]

[Ex Parte No. 241; Rule 19, 12th Rev. Exemption No. 129]

CHICAGO, WEST PULLMAN AND SOUTHERN RAILROAD CO., ET AL.

Mandatory Car Service Rules

It apearing, that the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carrieres for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unncessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Chicago, West Pullman & Southern Railroad Co.
Reporting Marks: CWP.
Chicago, Rock Island and Pacific Railroad Co.
Reporting Marks: RI-ROCK
Detroit and Mackinac Railway Co.
Reporting Marks: D&M-DM
Illinois Terminal Railroad Co.
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: MKT
Missouri Pacific Railroad Co.
Reporting Marks: CEI-MI-MP-TP
New Hope and Ivyland Railroad Co.
Reporting Marks: NHIR
Richmond, Fredericksburg and Potomac Railroad Co.
Reporting Marks: RFP
St. Louis-San Francisco Railway Co.
Reporting Marks: SLSF [1]

Effective 12:01 a.m., September 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-27033 Filed 9-15-77;8:45 am]

[1] Southern Railway Company eliminated.

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 13, 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 October 3, 1977.

FSA No. 43431—*Joint Rail-Water Container Rates — Bermuda Express Service*. Filed by Bermuda Express Service, (No. 1), for itself and interested rail carriers.

Rates on general commodities, from rail carriers terminals on the U.S. West Coast, to Hamilton, Bermuda.

Grounds for relief—Water competition.

Tariff—Bermuda Express Service tariff No. 1, I.C.C. No. 1, F.M.C. No. 16.

Rates are published to become effective on October 2, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27034 Filed 9-15-77;8:45 am]

[Notice No. 223]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before October 17, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested parties on notice of the proposed transfer.

No. MC-FC-77290, filed September 1, 1977. Transferee: POTTSVILLE MOVING AND STORAGE CO., INC., Prospect and Water Streets, Pottsville, Pa. 17901. Transferor: Pottsville Storage and Transfer Co., Prospect and Water Streets, Pottsville, Pa. 17901. Applicant's representative: James J. Riley, Esq., American Bank Building, Pottsville, Pa. 17901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 62898, issued November 28, 1962, as follows: Household goods between points in Schuylkill County, Pa., on the one hand, and on the other hand, points in New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-27035 Filed 9-15-77;8:45 am]

[Notice No. 115TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 13, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5470 (Sub-No. 133TA), filed August 23, 1977. Applicant: TAJON, INC., R.D. #, Mercer, Pa. 16137. Applicant's representative: Richard W. Sanguigni, (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Abrasive materials and refractory products*, in dump vehicles, from Buffalo, N.Y. to Jackson and Quinnesec, Mich. and Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Grinding Wheel, Division Federal Mogul Corporation, Erie Ave. and Walck Road, North Tonawanda, N.Y. 14120. SEND PROTESTS: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 39167 (Sub-No. 13TA), filed August 29, 1977. Applicant: C. J. ROGERS TRANS. CO., 2947 Greenfield Road, Melvindale, Mich. 48122. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products* and *building materials* (except commodities in bulk), from the facilities of the United States Gypsum Co. at or near Gypsum, Ohio (Portage Township, Ottawa County) to points in Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia, for 180 days. Supporting shipper(s): U.S. Gypsum Company, R. A. Stoneham, Traffic Manager, 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 42261 (Sub-No. 126TA), filed August 12, 1977. Applicant: LANGER TRANSPORT CORP., P.O. Box 305, Jersey City, N.J. 07303. Applicant's representatitve: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between South Volney, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey and New York, for 180 days. Supporting shipper(s): Miller Brewing Co., 4000 West State Street, Milwaukee, Wis. 53208. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 42261 (Sub-No. 127TA), filed August 12, 1977. Applicant: LANGER TRANSPORT CORP., P.O. Box 305, RT 440, Foot of Danforth Ave., Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water reducing admixtures, liquid*, in bulk, in tank vehicles, from Linden, N.J., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Maryland, Delaware, District of Columbia, Pennsylvania, West Virginia, Ohio, Virginia and Tennessee, for 180 days. Supporting shipper(s): Penn-Dixie Chemical Co., 2 Porete Avenue, North Arlington, N.J. 07032. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 61396 (Sub-No. 335TA), filed August 29, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II, same address as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, in tank vehicles, from the facilities of CF Industries, Inc., at or near Albany, Ill. to points in the States of Iowa, Minnesota, Wisconsin, and Illinois, for 180 days. Supporting shipper(s): Donald B. Ayers, Manager Transportation, CF Industries, Inc., Salem Dr., Long Grove, Ill., 60047. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, Nebr. 68102.

No. MC 69834 (Sub-No. 15TA) filed August 22, 1977. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, Kans. 67219. Applicant's representative: William H. Shawn, 1730 M St. NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *School, art, and hobbies supplies and commodities used in the manufacturing, packaging, and the transportation of school, art, and hobbies supplies*, between the facilities of Binney & Smith, Inc., located at Winfield, Kans., Cincinnati, Ohio, and Easton, Pa., and Vandalia, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Binney & Smith, Inc., 1100 Church Lane, Easton, Pa., 18042. Send protests to: M. E. Taylor, District Supervisor, Interstate Commission, Commerce, 101 Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 84739 (Sub-No. 26TA), filed August 22, 1977. Applicant: SEVERSON TRANSPORT, INC., Route 1, Box 163, Edgerton, Wis. 53534. Applicant's representative: John Duncan Varda, 121 South Pinckney, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Krier Preserving Company at or near Belgium and Random Lake, Wis., to points in Pennsylvania on and west of U.S. Highway 15, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michael V. Perry, d.b.a. Florie Diebold Co., 2 Gardner St., Johnstown, Pa. 15905. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 87566 (Sub-No. 9TA), filed August 23, 1977. Applicant: SCHMIDT TRUCK SERVICE, INC., U.S. Highway 66, Litchfield, Ill. 62056. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc oxide*, from Hillsboro, Ill., to Murray, Ky. and Des Moines, Iowa; and (2) *tote bins*, from Murray, Ky., to Hillsboro, Ill., for 180 days. Supporting shipper: S. O. Holdman, District Traffic Mgr., ASARCO Inc., 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 93840 (Sub-No. 32TA), filed August 25, 1977. Applicant: W. W. GLESS, d.b.a. GLESS BROS., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer* materials, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 103051 (Sub-No. 406TA), filed August 24, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Ave., North, Nashville, Tenn. 37209. Applicant's representative: P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acetic acid*, in bulk, in tank vehicles, from West Palm Beach, Fla. to Lodi, N.J., for 180 days. Applicant has also filed an an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tropical Shipping & Const. Co., Ltd., 821 Avenue "E", Riviera Beach, Fla. 33404. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107012 (Sub-No. 246TA), filed August 12, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway, East and Meyer Rds., Fort Wayne, Ind. 46801. Applicant's representative: Gary M. Crist, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, component parts, accessories, and equipment therefor*, from plantsite of Heatilator, a Division of Vega Industries, Inc., at or near Mt. Pleasant, Iowa, to Wickes Lumber and Building Supply Centers in Wisconsin, Minnesota, Nebraska, Kansas Missouri, Illinois, Indiana, Michigan, Ohio, Kentucky, Tennessee, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Oklahoma, Arkansas, Texas, Louisiana, Mississippi, Georgia, Florida, North Carolina, South Carolina, Virginia, and Colorado, for 180 days. Supporting shipper(s): Wickes Lumber, A Division of the Wickes Corp., 515 North Washington Avenue, Saginaw, Mich. 48607. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 107496 (Sub-No. 1103TA), filed August 25, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check, (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): FS Services, Inc., 1701 Towanda, Bloomington, Ill. 61701. CENEX, P.O. Box 43089, St. Paul, Minn. 55164. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 107541 (Sub-No. 48TA), filed August 15, 1977. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 Northeast Rockwell Drive, Vancouver, Wash. 98665. Applicant's representative: Dwight Willard, 6400 Village Parkway, Dublin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Borax and boric acid* (except in bulk), from the facilities of U.S. Borax Corp. at or near Boron, Calif., and the facilities of Kerr-McGee Corp. at Trona, Calif., to points on the international boundary line between the United States and British Columbia, Canada, restricted to foreign commerce, and (2) *soda products* (except in bulk), from points in Sweetwater County, Wyo., to points on the international boundary line between the United States and British Columbia, Canada, restricted to foreign commerce, for 180 days. Supporting shipper(s): St. Lawrence Chemical Co., 6590 McKenzie Drive, Delta, British Columbia, Canada Colours & Chemicals, Ltd., 7080 River Road, Suite 217, Richmond, British Columbia. Send protests to: District Supervisor R. V. Dubay, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Oreg. 97204.

No. MC 108449 (Sub-No. 400TA), filed August 26, 1977. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Minnesota, Wisconsin, and Illinois, for 180 days. Supporting shippers: There are approximately 5 statements attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.

No. MC 110525 (Sub-No. 1204TA), filed August 9, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, Commerce Counsel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil and vegetable oil*, in bulk, in tank vehicles, from the plant and storage facilities of Archer Daniels Midland Co., Bayway, N.J., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and Washington, D.C. Restricted to traffic originating at the facilities of ADM at Bayway, N.J., or to traffic having prior movement by water or rail and destined to the named destination points, for 180 days. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 110563 (Sub-No. 204TA), filed August 3, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, Ohio 45365. Applicant's representative: Victor J. Tambascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary* (except in bulk) in vehicles equipped with mechanical refrigeration. From: Chicago and Carol Stream, Ill., to: Points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to traffic originating at the plantsites and warehouse facilities utilized by E. J. Brach & Sons, Div. of American Home Products Corp. located at or near Chicago and Carol Stream, Ill., for 180 days. Supporting shipper(s): E. J. Brach & Sons, Division of American Home Products Corp., 4656 West Kinzie St., Chicago, Ill. 60644. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 112750 (Sub-No. 344TA), filed August 24, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions: Between Sturgis, Mich., on the one hand, and, on the other, Auburn, Howe, Indianapolis, Kendallville, Lagrange, and Middlebury, Ind., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Information Technology Services Center, 617 McKee Street, Sturgis, Mich. 49091. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Building, New York, N.Y. 10007.

No. MC 114569 (Sub-No. 185TA), filed August 3, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles* distributed by meat packinghouses, as described in Section A and C of Appendix 1 to the report in descriptions in motor carrier certificates 61 MCC 209 and 766 (except commodities in bulk, hides, pet foods, or pet food ingredients), From the plantsite and storage facilities of Farmland Foods, Inc., at or near Crete, Nebr., to points in the states of Connecticut, New Jersey, New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above shipper's facilities and destined to the named states, for 180 days. Supporting shipper(s): Farmland Foods, Inc., Box 403, Denison, Iowa 51442. Send protests to: Charles F. Meyers, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 115092 (Sub-No. 63TA), filed August 24, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam articles* (except in bulk), from Oakland, Calif., to Price, Cedar City, Clearfiled, Fillmore, Logan, and Provo, Utah; Cody, Gillette, Larami, Cheyenne, and Casper, Wyo.; and Twin Falls, Burley, Pocatello, and Mesa, Idaho, for 180 days. Supporting shipper: Intermountain Plastics, P.O. Box 9381, Boise, Idaho 83707. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State Street, Salt Lake City, Utah 84138.

No. MC 121509 (Sub-No. 5TA), filed August 26, 1977. Applicant: DAUFELDT TRANSPORT, INC., 618 Clay Street, P.O. Box 675, Muscatine, Iowa 52761. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 123157 (Sub-No. 33TA), filed August 23, 1977. Applicant: CTI, P.O. Drawer 397, 11115 N. Casa Grande Highway, Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* in bulk from railheads in Clark County, Nev., and San Bernardino County, Calif. to the Southern California Edison Power Plant located approximately 3 miles south of Davis Dam, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mono Power Company, P.O. Box 800, 2244 Walnut Grove Ave., Rosemead, Calif. 91770. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 2020, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 123765 (Sub-No. 11TA), filed August 8, 1977. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 E. National Ave., Milwaukee, Mis. 53204. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores between the retail outlets, storage facilities and distribution centers of H. C. Prange Company, in Wisconsin, on the one hand, and on the other, the retail outlets and storage facilities of H. C. Prange Company at or near Traverse City, Mich., restricted to traffic originating at or destined to said retail outlets, storage facilities and distribution centers of H. C. Prange, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. C. Prange Company, 504 Adams St., Green Bay, Wis. 54301. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 124411 (Sub-No. 13TA), filed August 22, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc. at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 128205 (Sub-No. 35TA), filed August 25, 1977. Applicant: BULK-MATIC TRANSPORT COMPANY, 12000 S. Doty Ave., Chicago, Ill. 60628. Applicant's representative: Stephen H. Loeb, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and soybean products*, in bulk (except liquid commodities in tank vehicles), from North Kansas City, Mo., to Arkansas, Texas, Mississippi, Louisiana, Oklahoma, New Mexico, Kansas, Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Colorado, Indiana, Kentucky, Michigan, North Dakota, South Dakota, Ohio and Tennessee, for 180 days. Supporting shipper(s): Tabor Milling Co., William Carter, Traffic Manager, P.O. Box 12567, No. Kansas City, Mo. 64116. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 129262 (Sub-No. 2TA), filed August 22, 1977. Applicant: AYERS AND MADDUX, INC., 510 East Olympic Blvd., Los Angeles, Calif. 90015. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from ports of entry on the United States-Mexico International Boundary line to points and places in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 133689 (Sub-No. 139TA), filed August 8, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor coverings, stair treads, wall tile, counter top coverings, mouldings, plumbers goods, kitchen fixtures and accessories, kitchen and bathroom cabinets and cabinet tops;* and (2) *materials and supplies* used in the installation, maintenance and repair of the commodities described in (1) above, from Brooklyn, Elmsford, Newburgh and Lake Success, N.Y.; Newark, Trenton, Roselle Park, East Brunswick and Port Elizabeth, N.J. to points in the Minneapolis/St. Paul, Minnesota Commercial Zone, restricted to shipments destined to the facilities of Minnesota Tile Supply located at or near Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Tile Supply, 4825 France Avenue North, Minneapolis, Minn. 55492. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 136545 (Sub-No. 12TA), filed August 25, 1977. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 1109 Railroad St., Box 95, Prentice, Wis. 54556. Applicant's representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Splicers, stackers, feeders and conveying systems* for the wood, wood products and corrugating industry from the plantsite of Marquip, Inc., located at or near Phillips, Wis., to points in the United States (except

Alaska, Hawaii, and Wisconsin), for 180 days. Applicant has also an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Marquip, Inc., North Airport Road, Phillips, Wis. 54555. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 136553 (Sub-No. 51TA), filed August 26, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc. at or near Albany, Ill., to points in Iowa, Illinois, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140159 (Sub-No. 2TA), filed August 26, 1977. Applicant: CHARLES L. FEATHER, R.D. No. 4, Box 653, Altoona, Pa. 16601. Applicant's representative: Thomas M. Mulroy, Esquire, 800 Lawyers Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Blair, Cambria, Clearfield, Indiana and Westmoreland Counties, Pa. to Front Royal, Va. and Baltimore, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Black Gold Coal Corp., 241 Orchard Road, Paoli, Pa. 19301. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 140768 (Sub-No. 6TA), filed August 12, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 499, South Bound Brook, Manville, N.J. 08880. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier* by motor vehicles, over irregular routes, transporting: *Oil and lubricants* except in bulk, from Elmenton and Farmers Valley, Pa. to Billerica, Fitchburg, Lawrence and Lowell, Mass., Gardiner, Me., and East Hartford and East Haven, Conn., restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc. and/or any person who is served by it pursuant to any permit issued by this Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lawrence Motor Parts Co., John H. Robintol, President, 131–137 So. Broadway, Lawrence, Mass. 01843. Send protests to: Robert S. H. Vance, District Supervisor, 9 Clinton Street, Newark, N.J. 07102.

No. MC 141804 (Sub-No. 73TA), filed August 10, 1977. Applicant: WESTERN EXPRESS, a division of Interstate Rental, Inc. P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries* from the plant site and storage facilities of Mrs. J. G. McDonald's Chocolate Co., at or near Salt Lake City, Utah, to points in the United States located on or east of U.S. Highway 85 except points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Illinois, Indiana, Michigan, and the District of Columbia for 180 days. (Restricted to traffic originating at the above named location.) Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mrs. J. G. McDonald's Chocolate Co., 2250 South 3rd East, Salt Lake City, Utah. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations — Interstate Commerce Commission, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141914 (Sub-No. 15TA), filed August 9, 1977. Applicant: FRANK & SONS, INC., Route 1, Box 108–A, Big Cabin, Okla. 74332. Applicant's representative: E. Stephen Heisley, 666 11th Street N.W., No. 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber piping, tubing and hose*, including rubber hose, reinforced with fabric or steel, from the port of entry on the International Boundary line between the United States and Canada located at or near Stanhope, Vt., to points in Alabama, Arizona, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): I V G Rubber, Canada Ltd., Deregibus Blvd. St., Alphonse de Granby, Quebec, Canada. M. Waddington Ltd. 2121 Trans Canada Highway North, No. 408, Dorval, Quebec, Canada. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 142059 (Sub-No. 12TA), filed August 23, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe, plate, bolts and washers* (except commodities which because of size or weight require specialized transportation equipment), from Carlinville, Centralia, Flora, Irvington and Sparta, Ill. and Louisiana, Mo. to points in Iowa, Minnesota, Nebraska and South Dakota, for 180 days. Supporting shipper: Valley Steel Products, Co., P.O. Drawer 429, Centralia, Ill. 62801. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett Mckinley Dirksen Bldg., 219 S. Dearborn St., Room 1386 Chicago, Ill. 60604.

No. MC 142585 (Sub-No. 1TA), filed August 8, 1977. Applicant: MOORE'S AIRPORT LIMOUSINE SERVICE, INC., P.O. Box 8475, Greensboro, N.C. 27410. Applicant's representative: Willie L. Moore (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material and supplies* used in the manufacture of telephone equipment having a prior or subsequent out-of-state movement via air freight, between the Greensboro/Winston-Salem/High Point Regional Airport, and the Western Electric Co., Inc., 330 Lexington Rd., Winson-Salem, N.C. and Mount Hope Church Rd., Greensboro, N.C. under a continuing contract with Western Electric Co. Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Electric Co., Inc., Resident Transportation Supervisor, 3300 Lexington Rd., Winston-Salem, N.C. 27102. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 142848 (Sub-No. 4TA), filed August 23, 1977. Applicant: JAMES R. POSHARD & SON, INC., P.O. Box 69, Mount Vernon, Ind. 47620. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Temporary authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Pope, Saline, Union, and Williamson Counties, Ill.; and points in Kentucky on and west of U.S. Highway 31E to Gibson, Knox, and Vigo Counties, Ind. Supporting shipper: Public Service Indiana, 1000 East Main, Plainfield, Ind. 46168. Send protests to: Mr. William S. Ennis, District Supervisor, Interstate Commerce Commission, 429 Federal Building, 46 East Ohio Street, Indianapolis, Ind. 46204.

No. MC 143250 (Sub-No. 2TA), filed August 16, 1977. Applicant: WILDCAT CONSTRUCTION CO., INC., St. Albans, Vt. 05478. Applicant's representative: David M. Yarnell, 99 North Main Street, St. Albans, Vt. 05478. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, (1) from Swanton, Vt., to points in Connecticut, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia; and (2) from Brooklyn, Albany, and Schenectady, N.Y.; and Baltimore, Md., to Swanton, Vt., under a continuing contract, or contracts, with Lucille Farm Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lucille Farm Products, Inc., Box 125, Swanton, Vt. 05488. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 143379 (Sub-No. 1TA), filed August 22, 1977. Applicant: COX TRANSPORT CORP., 50 East 1st North, Manti, Utah 84642. Applicant's representative: Harry D. Pugsley, 12th Floor, 310 South Main Street, Salt Lake City, Utah 84101. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Aurora, Utah, to Mills Junction, Utah, and from Dog Valley Mine (50 miles east of Salina, Utah), to Mills Junction, Utah, railhead (4 miles southwest of Levan, Utah), under a continuing contract, or contracts, with Western States Coal Corp., for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper(s): Western States Coal Corp., Lakewood, Colo. (Geoffery C. Benedict, Coal Sales Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143397TA, filed August 4, 1977. Applicant: NORRIS JACOBSON, d.b.a. NORRIS JACOBSON TRUCKING, Route 2, Box 42, Goodhue, Minn. 55027. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, dry in bags and in bulk, moving in the same straight truck equipped with auxiliary auger unloading equipment, restricted to loads not in excess of 31,000 pounds net weight, from the plantsite of Cargill, Inc., Nutrena Feed Division, at Minneapolis, Minn., to points in Wisconsin in and north of LaCrosse, Monroe, Juneau, Adams, Marquette, Green Lake, Fond du Lac, and Sheyboygan Counties, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., Nutrena Feed Division, P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 143579 (Sub-No. 1TA), filed August 22, 1977. Applicant: MONT TRUCKING, INC., 2023 North 2450 West, Salt Lake City, Utah 84116. Applicant's representative: D. Michael Jorgensen, 48 P.O. Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Burned clay products and related installation materials*, between points in Arizona, New Mexico, Texas, Utah, California, Washington, Oregon, Idaho, Montana, Colorado, Wyoming, and Nevada, under a continuing contract, or contracts, with Interstate Brick for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Interstate Brick, 9710 South 5200, West West Jordan, Utah 84084 (Joan Baldwin Traffic Manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 143586TA, filed August 8, 1977. Applicant: RANGEN TRANSPORTATION, INC., Route 4, Buhl, Idaho 83316. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by dealers, distributors, wholesalers, retailers, and manufacturers of animal and fish feed, animal and fish feed ingredients, fertilizer and fertilizer ingredients, chemicals, seeds and hatchery supplies. Between the plantsite and storage facilities of Rangen, Inc., at or near Buhl, Idaho, on the one hand, and, on the other, points in Oregon, Washington, Montana, California, Nevada, Utah, Wyoming, Arizona, Colorado, and New Mexico, under a continuing contract, or contracts, with Rangen, Inc., for 180 days. Applicant does not intend to tack or interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rangen, Inc., P.O. Box 706, Buhl, Idaho 83316. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 143600TA, filed August 11, 1977. Applicant: H. K. DELIVERY SYSTEMS, INC., 836 West North Avenue, Pittsburgh, Pa. 15233. Applicant's representative: Frederick L. Kiger, 7823 Mount Carmel Road, Verona, Pa. 15147. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household and industrial cleaning products, toilet preparations, insect control products, air fresheners, brooms, brushes, mops, and advertising material* related to the foregoing, from Pittsburgh, Pa., to that portion of Pennsylvania west of and bounded by the easterly boundaries of the counties of Potter, Cameron, Clearfield, Blair, and Bedford, from Pittsburgh, Pa., to that portion of West Virginia known as the Upper Panhandle; and from Charleston, W. Va., to the remaining portion of West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Fuller Brush Co., 1000 Skokie Boulevard, Willmette, Ill. 60091. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 143648TA, filed August 26, 1977. Applicant: CORALVILLE TRANSPORT, INC., R.R. No. 1, Lamont, Iowa 50650. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): FS Services, Inc., 1701 Towanda, Bloomington, Ill. 61701. Midland Cooperatives, Inc., 2021 East Hennepin Avenue, Minneapolis, Minn. 55431. CENEX, P.O. Box 43089, St. Paul, Minn. 55164. CF Industries, Inc., Salem Lake Drive, Long Grove, Ill. 60047. Land O'Lakes Agricultural Services, 2827 8th Avenue South, Fort Dodge, Iowa. 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143649TA, filed August 5, 1977. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, Iowa 50676. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Iowa, Wisconsin, Illinois, and Minnesota, for 180 days. Supporting shipper(s): There are approximately 5 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 143650TA, filed August 24, 1977. RAPID DAIRY TRANSPORT, INC., 1745 Torringford West Street, Torrington, Conn. 06790. Applicant's representative: Hugh M. Joseloff, 80 State Street,

Hartford, Conn. 06103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid industrial waste*, in bulk in tank trucks from all points in New York, Massachusetts, New Hampshire, Vermont, Rhode Island, Maine, Pennsylvania, and New Jersey, to Thomaston, Conn., for 180 days, under a continuing contract with Liqwacon Corp., Old Waterbury Road, Thomaston, Conn. 06787. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-27036 Filed 9-15-77;8:45 am]

[AB 12 (Sub-No. 52)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Kaplan and Eunice, in Acadia, St. Landry, and Vermilion Parishes, La.

August 29, 1977.

The Interstate Commerce Commission hereby gives notice that: (1) The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., (2) a notice setting forth this conclusion was served July 11, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice; (3) this proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-27032 Filed 9-15-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report

Correction

In FR Doc. 77-26942 appearing at page 46087 in the issue of Wednesday, September 14, 1977 on page 46088, the last entry under the heading "Designated high rate geographical areas" should be corrected to read as follows:

Providence, R.I. (all locations within the corporate limits thereof)	40

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

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, September 16, 1977. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the House Committee on Banking, Finance and Urban Affairs regarding the Supervisory Amendments Act.

2. 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 13, 1977.

GRIFFITH R. GARWOOD,
Deputy Secretary of the Board.

[S–1326–77 Filed 9–13–77;2:14 pm]

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45435, September 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 14, 1977.

CHANGES IN THE MEETING:

One of the items announced for inclusion at this closed meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs regarding H.R. 7918, a bill to amend the Federal Financing Bank Act of 1973. This matter was originally scheduled for a meeting on September 13, 1977.

Previously announced closed items:

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.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202–452–3204).

Dated: September 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–1335–77 Filed 9–13–77;4:05 pm]

3

CIVIL AERONAUTICS BOARD.

[MA–35 amending M–51]

SEPTEMBER 9, 1977.

ADDITION OF ITEMS TO, AND CHANGE OF TIME IN, THE SEPTEMBER 12, 1977 MEETING AGENDA

TIME AND DATE: 9 a.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 1. Consideration of anticipatory costs for ratemaking purposes (Memo No. 6709–B, BFR).

2. Docket 31322, Domestic general fare increase proposed by various carriers (Memo No. 7414, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202–673–5068).

SUPPLEMENTARY INFORMATION: Docket 31322, the domestic general fare increase, involves tariffs filed through September 8, 1977. If the Board desires to suspend these tariffs pending investigation, it must act by September 15, 1977. A discussion of portions of BFR's memo on consideration of anticipatory costs for ratemaking purposes would be helpful to the determination of the tariff matters. Accordingly, the following Members voted that agency business requires that the Board meet on these two items at 9 a.m. on Monday, September 12, 1977, and that no earlier announcement 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–1337–77 Filed 9–14–77;9:09 am]

4

CIVIL AERONUATICS BOARD.

[MA–36 amending M–51]

ADDITION OF ITEM TO SEPTEMBER 12, 1977 MEETING AGENDA

SEPTEMBER 12, 1977.

TIME AND DATE: 12:30 p.m., September 12, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285 and 31305 Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corporation, The Educational Cooperative, and Laker Airways Limited against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Standby Budget, and Super-Apex Fares over the North Atlantic; and Docket 29123, Agreement Adopted by the Traffic Conferences of the International Air Transport Association Relating to North Atlantic Passenger Fares Agreement C.A.B. 26858, R–1 through R–5.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202–673–5068).

SUPPLEMENTARY INFORMATION: The Board sent an interim recommendation to the President on Thursday, Sep-

tember 8. The Board desires to reconsider that recommendation in light of its September 9 tentative decision on these fares. Accordingly, the following Members have voted that agency business requires the addition of this item to today's agenda at 12:30 p.m. and that no earlier announcement of the addition 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-1338-77 Filed 9-14-77;9:09 am]

5

CIVIL AERONAUTICS BOARD.

[MA-37 amending M-52]

NOTICE OF ADDITION OF ITEM TO THE SEPTEMBER 15, 1977 MEETING AGENDA

TIME AND DATE: 10 a.m., September 15, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 21. Docket 28833, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in *Seaboard World Airlines* v. *Pan American World Airways and Trans World Airlines* (Memo 7415, OGC).

STATUS: Open.

PERSON TO CONTACT:
Phyllis T. Kaylor, the Secretary (202-673-5068).

SUPPLEMENTARY INFORMATION: Agency business requires the addition to the calendar of September 15 of this item in Docket 28833 as the Board must make its determination before September 16, 1977 on whether or not to review the decision of the Bureau of Enforcement not to institute an enforcement proceeding or, under Rule 205 of the Procedural Regulations, the BOE decision will become that of the Board on September 16, 1977. Accordingly, the following Members have voted that agency business requires the addition of this item to the agenda of September 15, 1977, on less than seven days' notice and that no earleir announcement of this addition 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-1339-77 Filed 9-14-77;9:09 am]

6

CIVIL AERONAUTICS BOARD.

[M-54]

SEPTEMBER 9, 1977.

TIME AND DATE: 10 a.m., September 16, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: 1. OMB request for Board comments on OMB draft bill to amend the Independent Offices Appropriations Act, 1952 with reference to User Charger (Memo No. 7416, OGC, OC).
2. Consideration of Board's position on the provisions of H.R. 8813 (Task Force and Steering Committee on Regulatory Reform).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1340-77 Filed 9-14-77;9:09 am]

7

CIVIL AERONAUTICS BOARD.

[M-55]

SEPTEMBER 12, 1977.

TIME AND DATE: 10 a.m., September 19, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: International Aircoach Association will make a presentation to the Board regarding its operations.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202-673-5068).

[S-1341-77 Filed 9-14-77;9:09 am]

8

DATE AND TIME: August 24, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Regulations on Substantial Product Hazards, CPSA sections 15 and 16(b).* The staff will brief the Commission on two draft FEDERAL REGISTER documents on substantial product hazards. The first would propose a consolidated version of existing regulations (16 CFR Parts 1115 and 1116) which govern CPSC's actions with regard to substantial product hazard notifications which it receives under requirements of section 15. The second would propose recordkeeping requirements under section 16(b).

2. *Collection and Utilization of Chemical Information.*

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1331-77 Filed 9-13-77;2:14 pm]

9

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: August 25, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public:

1. *Petition on Recall Cards AP 77-1.* In this petition, Paul Foldes, of Arlington, Virginia, has asked the Commission to require manufacturers and distributers to include pre-addressed, postage-paid "recall" cards with all consumer products.

2. *Petition on Aerosol Misdirection, CP 77-4.* In this petition, the National Consumers League has asked the Commission to initiate a proceeding to develop a standard which would ensure that the spray from aerosol containers is properly directed.

3. *Petition CP 77-5, Architectural Glazing Materials.* This petition asks the Commission to supplement or amend the architectural glazing materials standard with respect to visual barriers and the impactor.

4. *Possible Substantial Product Hazard: Gaffers & Sattler, Inc. counterflow furnace, ID 77-45.* The staff has recommended that the Commission close this case, based on its conclusion that the possible defect, an incorrectly installed switch, does not present a substantial product hazard.

5. *Possible Substantial Product Hazard: I-T-E Imperial Corp. electric baseboard heater, ID 77-12.* Based on its conclusion that the possible failure of resistance heating wires in these units does not present a substantial product hazard, the staff has recommended that the Commission close this case.

6. *Possible Substantial Product Hazard: D & B Model Aircraft Corp. propeller spinner, ID 77-1.* The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible substantial product hazard involving model aircraft propeller spinners which the firm distributes. The staff also recommends that the Commission close the case as to the timeliness of the firm's notification.

7. *Possible Substantial Product Hazard: KLH Research and Development Corp. loudspeakers, ID 77-39.* The staff has recommended that the Commission accept the corrective action plan which KLH has implemented to deal with a defect which could pose a fire hazard in certain loudspeakers.

8. *Reconsideration of CPSA section 6 (b) Regulations.* These rules would establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products, or to request retraction of inaccuracies in published information. The rules would express the Commission's interpretation of section

6(b) of the Consumer Product Safety Act. The Commission previously considered these rules at the July 28, 1977 Commission Meeting.

9. *Regulations on Substantial Product Hazards, CPSA sections 15 and 16 (b).* The staff has prepared two draft FEDERAL REGISTER documents on substantial product hazards. The first would propose a consolidated version of existing regulations (16 CFR Parts 1115 and 1116) which govern CPSC's actions with regard to substantial product hazard notifications it receives under requirements of section 15. The second document would propose recordkeeping requirements under section 16(b). These regulations were originally scheduled for consideration at the August 18 Commission Meeting, and were discussed at the August 24 Commission Briefing Meeting.

10. *Information and Education Effort: Minorities and Women Project.* The Commission will consider action on staff plans for providing safety information and education directed toward minority groups and women.

B. Closed to the Public:

11. *TRIS.* The Commission will be briefed on enforcement action with regard to children's garments treated with the flame-retardant chemical TRIS.

12. *Request to Waive Enforcement of CPSA section 4(g)(2).* A former CPSC employee has asked the Commission to waive enforcement of section 4(g)(2) of the Consumer Product Safety Act, which restricts employment of former CPSC employees for one year.

13. *Mattress Case.* Request to seek consent agreement (OS package No. 439).

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1330-77 Filed 9-13-77;2:14 pm]

10

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 21, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

I. *Briefing Items.* Open to the Public:

1. *Burn Injury Demonstration Program.* At this briefing, a CPSC contractor will demonstrate educational strategies and materials which have been developed as part of a program to reduce the number and severityof burn injuries to children. The briefing will include an evaluation of results so far in the third year of the four-year program.

2. *Benzene Petition, HP-7712.* The staff will brief the Commission on issues related to this petition, in which the Health Research Group has asked the Commission to declare benzene to be a hazardous product, and to remove benzene-containing products from the market.

3. *Miniature Christmas Tree Lights.* The staff and representatives of the National Consumers League (NCL) will brief the Commission on the status of NCL's development of a recommended safety standard for Christmas tree lights, a proceeding under section 7 of the Consumer Product Safety Act.

II. *Decision Items.* A. Closed to the Public (The Commission will consider these as the last items on the agenda if time does not permit consideration before the lunch break.)

4. *Recommendation to Seek Consent Agreement* (OS Package No. 440). The staff has recommended that the Commission seek a consent agreement in this Flammable Fabrics Act case involving a carpet manufacturer.

5. *Recommendation to Seek Consent Agreement* (OS Package No. 441). The staff has recommended that the Commission seek a consent agreement in this Flammable Fabrics Act case involving a carpet manufacturer.

6. *Recommended Prosecution* (OS Package No. 442. The staff has recommended that the Commission initiate prosecution in this Flammable Fabrics Act case involving a manufacturer of children's sleepwear.

Lunch break.

2:00 p.m.

B. Open to the Public:

7. *Amendment to the Meetings Policy.* The Commission will consider an amendment to its Meetings Policy which, if approved, would permit CPSC staff to attend closed interagency meetings attended solely by government employees. At present, the policy allows closed meetings with other government employees only in specified instances, or when "extraordinary circumstances warrant closing the meeting."

8-12. *Architectural Glazing Petitions.* The Commission will consider five petitions to amend the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201). The petitions are:

8. *CP 77-5,* in which Dr. Robert J. Cunitz asks the Commission to supplement or amend the standard with respect to visual barriers and the impactor used in testing glazing materials;

9. *CP 77-11,* in which the Plastic Safety Glazing Committee requests amendments to weathering requirements;

10. *CP 77-8,* in which the National Association of Home Builders seeks to exempt glazing in door openings through which a 6-inch sphere cannot pass;

11. *CP 77-14,* in which the National Lumber and Building Dealers Association asks to exempt glazing in door openings through which an 8-inch sphere cannot pass; and

12. *CP 77-15,* in which the Mahoney Sash and Door Co. seeks an exemption for glazing in "traditional wood stile and rail doors."

13. *Possible Substantial Product Hazard: Frohock-Stewart, Inc. bath stools,* ID 77-41. The staff has recommended that the Commission accept the corrective action plan which this firm has implemented to deal with a possible substantial product hazard involving bath stools which may collapse because of incorrect assembly at the factory.

14. *Office of Public Participation.* The Commission will consider a number of issues related to establishing the Office of Public Participation, including personnel qualifications, staff selection, operating budget, funding of participants, and other functions of the office.

15. *Office of Strategic Planning.* The Commission will consider proposed FY 78 activities of the Office of Strategic Planning in the areas of evaluation, policy analysis and special projects.

CONTACT PERSON:

Sheldon Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., N.W., Washington, D.C. 20207, telephone 202-634-7700.

[S-1343-77 Filed 9-14-77;10:22 am]

11

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45731, September 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, September 14, 1977.

CHANGE IN THE MEETING: (1) The meeting is postponed until 9:30 a.m. (eastern time), Monday, September 19, 1977.

(2) The following matters is deleted from the agenda for the closed portion of the meeting, and postponed until further notice:

Proposed time-phased plan for implementation of new compliance and litigation procedures in all EEOC field offices.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required these changes and that no earlier announcement was possible.

The vote was as follows: In favor of change—Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner. Opposed—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued September 14, 1977.

[S-1344-77 Filed 9-14-77; 11:24 am]

12

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 11:00 a.m. (eastern time), Tuesday, September 20, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: Revision of internal compliance manual.

NOTE.—Any matters not discussed or concluded may be carried over to a latter meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 13, 1977.

[S-1345-77 Filed 9-14-77;11:24 am]

13

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Monday, September 19, 1977.

PLACE: Hotel Washington, 15th Street and Pennsylvania Avenue NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED: Discussions among CEPT/TELEGLOBE/FCC representatives concerning transatlantic facilities planning in Docket No. 18875.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: September 12, 1977.

[S-1328-77 Filed 9-13-77;2:14 pm]

14

FEDERAL MARITIME COMMISSION.

TIME AND DATE: September 21, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

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. Notation items disposed of by the Commission during August, 1977.
2. Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during August 1977.
3. Report on applications for admission to practice approved during the month of August 1977.
4. Assignment of informal dockets during August 1977.
5. Agreement No. 9615-22, modification of the Iberian/U.S. North Atlantic Westbound Freight Conference to provide for associate membership.
6. Agreement No. 10022-4, modification providing for extension of the United States-Europe discussion agreement and request for additional time to submit justification.
7. Agreement No. 10186-1, modification of space chartering agreement between Korea Shipping Corp. and Orient Overseas Container Line, Inc., to increase the minimum and maximum number of forty foot equivalent container slots.

Portions closed to the public:

1. Agreement No. 10041-4, between Prudential Lines, Inc., and Compania Peruana de Vapores, and agreement No. 10044-3, between Lykes Bros. Steamship Co., Inc., and Compania Peruana de Vapores, petitions for extension of interim approval pendente lite (dockets Nos. 77-33 and 77-34); agreement No. 10041-5, reduction of minimum number of sailings.
2. Docket No. 71-29—*Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.*, appeal from denial of motion to stay further proceedings and from denial of motion for reconsideration of the denial of the motion to stay further proceedings; petition for reconsideration of the Commission's report and order; appeal of motion dismissing the supplemental and amended complaint and striking supplemental and amended complaint; and hearing counsel motion to enforce, cease and desist order.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, (202-523-5727)

[S-1332-77 Filed 9-13-77;2:43 pm]

15

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION.

TIME AND DATE: 11 a.m., Monday, September 26, 1977.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Foundation's proposed graduate program; the Foundation's proposed budget and finances for fiscal year 1978.

CONTACT PERSON FOR MORE INFORMATION:

Dr. Ralph N. Malvik, Deputy Executive Secretary, telephone 202-395-4831.

ROBERT E. CLEARY,
Executive Secretary.

Approved:

JOHN W. SNYDER,
Chairman, Board of Trustees.

[S-1329-77 Filed 9-13-77;2:14 pm]

16

INTERNATIONAL TRADE COMMISSION.

[USITC SE-77-55]

TIME AND DATE: 9:30 a.m., Wednesday, September 28, 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. Ratification.
4. Petitions and complaints: (a) Saccharin from Korea (if necessary).
5. Quarterly East-West Trade Report (if necessary).
6. Zero base budgeting.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202-523-0161).

[S-1334-77 Filed 9-13-77;3:41 pm]

17

INTERNATIONAL TRADE COMMISSION.

[USITC SE-77-54A]

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 45435, September 9, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., September 22, 1977.

CHANGES IN THE MEETING: Additional items added to the agenda as follows: 7. Prehearing Order No. 25 in Investigation 337-TA-29 (stainless steel pipe and tube): Recommendation to dismiss certain persons—see memorandum from the General Counsel (to be distributed).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary 202-523-0161).

[S-1333-77 Filed 9-13-77;3:41 pm]

18

SEPTEMBER 13, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 20, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Commission division organization.
2. Petition of the Motor Carrier Lawyers Association proposing establishment of an advisory committee.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202–275–7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S–1336–77 Filed 9–13–77;4:05 pm]

19

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 21, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Tentative decision concerning the officer of the Commission's proposal to eliminate the distinction between rates for advertising and editorial matter, Docket No. MC76–2.

2. Further recommended decision on reconsideration implementing legislative amendments and making related procedural dispositions, Docket No. MC77–1.

3. Proposed coment on Postal Service's proposed post office closing and consolidation regulations (to be filed in Postal Service's notice-and-comment rulemaking proceeding).

Meeting closed pursuant to 5 U.S.C. § 552b(c)(10).

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–1327–77 Filed 9–13–77;2:14 pm]

20

POSTAL SERVICE BOARD OF GOVERNORS.

SEPTEMBER 12, 1977.

VOTE TO CLOSE A MEETING

On September 9, 1977, the Board of Governors of the U.S. Postal Service unanimously voted to close to public observation a portion of its meeting currently scheduled for October 4, 1977. Each of the members of the Board voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Holding, Ching, Codding, Hardesty, Nevin and Robertson; Postmaster General Bailar; Deputy Postmaster General Bolger; Secretary of the Board Cox; and Senior Assistant Postmaster General (Employee and Labor Relations) Conway.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1978.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of Title 39, Code of Federal Regulations, the discusion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, Untied States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and 552b(3)(9)(B) of title 5 and section 410(c)(3) of Title 39, United States Code, and §§ 7.3(c) and 7.3(i) of Title 39, Code of Federal Regulations.

LOUIS A. COX,
Secretary.

[S–1325–77 Filed 9–13–77;2:11 pm]

21

CIVIL SERVICE COMMISSION.

TIME AND DATE OF MEETING: 9 a.m., September 20, 1977.

PLACE: Commissioners' Meeting Room, Room 5H09 (fifth floor), 1900 E Street NW., Washington, D.C.

STATUS: Open (because of scheduling problems, earlier notice was not possible).

MATTERS TO BE CONSIDERED:

(1) Elimination of questions concerning membership in certain types of organizations from Standard Form 86 (security appraisal form) because such questions may abridge the first amendment rights of applicants.

(2) Proposed amendments to the Commission's suitability guidelines regarding current use of substances listed under the Controlled Substances Act, 21 U.S.C. 812.

CONTACT PERSON FOR MORE INFORMATION:

Georgia Metropulos, Office of the Executive Assistant to the Commissioners (202–633–5556).

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

[S–1356–77 Filed 9–15–77;8:59 am]

federal register

FRIDAY, SEPTEMBER 16, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Letters of Map Amendments; Various Communities

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-1138]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Vacaville, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 25, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Vacaville, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Vacaville, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060373A Panel 03, published on May 25, 1976 in 41 FR 21326, indicates that Lots 4 through 75, 77, and 78, Crestview Estates, Unit No. 3, Vacaville, Calif., as recorded in Book 30, Pages 20 through 22, in the office of the Recorder of Solano County, Calif., are within the Special Flood Hazard Area.

Map No. H 060373A Panel 03 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on May 17, 1974 and May 21, 1976.

(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.77-26423 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Concord, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Concord, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Concord, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 065022 Panel 09, published on August 6, 1974 in 39 FR 28250, indicates that Lot 1, Block 2, Oak Grove Villa, Concord, Calif., as recorded in Book 180, Pages 12, 13 and 14, in the office of the Clerk of Contra Costa County, Calif., is within the Special Flood Hazard Area.

Map No. H 065022 Panel 09 is hereby corrected to reflect that Buildings 1 through 9, and 14 through 17, on the above property are not within the Special Flood Hazard Area identified on June 28, 1974.

(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.77-26424 Filed 9-15-77;8:45 am]

[Docket No. FI-438]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Santa Barbara County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On January 3, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Santa Barbara County, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Santa Barbara County, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NIFA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060331 Panel 22, published on January 3, 1975 in 40 FR 776, indicates that Tract 11390, Santa Barbara County, Calif., as recorded in Book 79, Pages 44 and 45, in the office of the Recorder of Santa Barbara County, Calif, is within the Special Flood Hazard Area.

Map No. H 060331 Panel 22 is hereby corrected to reflect that Buildings 3, 4, 7 and 8 on Tract 11390 are not within the Special Flood Hazard Area identified on December 20, 1974.

(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.77-26425 Filed 9-15-77;8:45 am]

[Docket No. FI-805]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Petaluma, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 5, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Petaluma, Calif. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Petaluma, Calif., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 060379A Panel 05, published on December 5, 1975 in 40 FR 56914, indicates that the 7.196± acres of land south of Washington Street, known as the Golden Eagle Shopping Center, Petaluma, Calif., as recorded in Book 235 of Maps, Pages 19 and 20, in the office of the Recorder of Sonoma County, Calif., is within the Special Flood Hazard Area.

Map No. H 060379A Panel 05 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on November 28, 1975.

(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.77-26426 Filed 9-15-77;8:45 am]

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Lafayette, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 3, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Lafayette, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Lafayette, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 080026A Panel 02, published on June 3, 1974, in 39 FR 19456, indicates that Lots 178, 182, and 183, Resubdivision of Lot 17, Centaur Village, Lafayette, Colo., as recorded in P–5, F3, No. 34, in the office of the Recorder of Boulder County, Colo., are within the Special Flood Hazard Area.

Map No. H 080026A Panel 02 is hereby corrected to reflect that Lot 182 and the existing structures on Lots 178 and 183 are not within the Special Flood Hazard Area identified on May 24, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26427 Filed 9-15-77;8:45 am]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Aurora, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 7, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Aurora, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Aurora, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 080002 Panel 11, published on August 7, 1974, in 39 FR 28424, indicates that Lots 10 through 27, Block 3; Lots 39 through 61, Block 4; and Lots 1 through 3, 17 through 19, 25, and 26, Block 7, Stone Ridge Park Subdivision, Filing No. 3, Aurora, Colo., as recorded in Book 31, Pages 11 through 13, in the office of the Clerk and Recorder of Arapahoe County, Colo., are within the Special Flood Hazard Area.

Map No. H 080002 Panel 11 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(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.77-26429 Filed 9-15-77;8:45 am]

[Docket No. FI-327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Guilford, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Guilford, Connecticut. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Town of Guilford, Connecticut, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 090077 Panel 10, published on August 12, 1974, in 39 FR 28887, indicates that Lot 19, Saw Mill Village, section 4, at 71 Grist Mill Circle, Guilford, Connecticut, recorded as Map No. 1855, in the office of the Clerk of the Town of Guilford, Connecticut, is within the Special Flood Hazard Area.

Map No. H 090077 Panel 10 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26430 Filed 9-15-77;8:45 am]

[Docket No. FI-70-14582]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Columbus, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 30, 1970, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Columbus, Georgia. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Columbus, Georgia, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition

purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 135158B Panel 41, published on October 30, 1970 in 35 FR 16799, indicates that land described as part Land Lot 35, 7th District, Columbus, Georgia, as recorded in Book 940, Folio 22, in the office of the Clerk of Muscogee County, Georgia, is within the Special Flood Hazard Area.

Map No. H&I 135158B Panel 41 is hereby corrected to reflect that the existing easternmost structure south of Wedgefield Court and the three existing easternmost structures north of Wedgefield Court on the above mentioned property are in Zone B and are not within the Special Flood Hazard Area identified on October 30, 1970.

(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.77-26431 Filed 9-15-77;8:45 am]

[Docket No. FI-425]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of LaGrange, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 13, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included LaGrange, Illinois. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Village of LaGrange, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 170114 Panel 02, published on December 13, 1974, in 39 FR 43393, indicates that Lot 1 in Stanley A. Papierz Builders, Incorporated, Resubdivision Lots 1 through 48, Block 8, LaGrange, Illinois, as recorded in Document Numbers 19 150 130, 19 360 941, 19 234 451 of Deeds, in the office of the Recorder of Deeds, Cook County, Illinois, is within the Special Flood Hazard Area.

Map No. H 170114 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 29, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26432 Filed 9-15-77;8:45 am]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Steuben County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Steuben County, Indiana. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Steuben, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180243 Panel 05, published on January 10, 1975, in 40 F.R. 2183, indicates that Lots 1 through 27, North Snow Bay First Addition as recorded in Plat Record Number 4, Page 9; Lots 28 through 44 and 47 through 70, North Snow Bay Second Addition, as recorded in Plat Record Number 4, Page 17 through 17A; and Lots 75 through 82, and 85, 86, 87, 88, and 89 through 93, North Snow Bay Third Addition, as recorded in Plat Record Number 4, Page 25, in the Office of the Recorder of Steuben County, Indiana, are within the Special Flood Hazard Area.

Map No. H 180243 Panel 05 is hereby corrected to reflect that Lots 1 through 27, with the exception of the rear 10 feet, North Snow Bay First Addition; Lots 28 through 44 and 47 through 70 with the exception of the rear 10 feet, North Snow Bay Second Addition; Lots 75 through 82 and 85, with the exception of the rear 10 feet, Lots 89 through 93, with the exception of the front 10 feet and the rear 10 feet, Lots 86 and 87, with the exception of the rear 10 feet and front 40 feet, and Lot 88, with the exception of the rear 10

feet and the front 10 feet, North Snow Bay Third Addition of the above property, are not within the Special Flood Hazard Area identified on December 27, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26433 Filed 9-15-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Indianapolis, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Indianapolis, Ind. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Indianapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180159A Panel 49, published on May 17, 1974, in 39 FR 17518, indicates that Lots 67 through 72, Section 3, Spring Valley Subdivision, Indianapolis, Ind., recorded as Document Number 76–57482, in the office of the Recorder of Marion County, Indianapolis, Ind., are within the Special Flood Hazard Area.

Map No. H 180159A Panel 49 is hereby corrected to reflect that Lots 67 through 70, and the existing structures on Lots 71 and 72 of the above property are not within the Special Flood Hazard Area identified on May 17, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26434 Filed 9-15-77;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Indianapolis, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On May 17, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Indianapolis, Ind. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Indianapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 180159A Panel 34, published on May 17, 1974, in 39 FR 17518, indicates that 3179 North Patton Drive, being lot 36 in the Eagledale High School Addition, Indianapolis, Ind., as recorded in Platbook 31, Page 396 in the Office of the Recorder of Marion County, Ind., is within the Special Flood Hazard Area.

Map No. H 180159A Panel 34 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1977.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26435 Filed 9-15-77;8:45 am]

[Docket No. FI-229]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Akron, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Akron, Iowa. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Akron, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of

Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 190223A Panel 01, published on March 27, 1974, in 39 FR 11262, indicates that Coon's First Addition, Akron, Iowa, as recorded in Platbook 70, Page 227, in the Plymouth County Courthouse, Akron, Iowa, is within the Special Flood Hazard Area.

Map No. H 190223A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 22, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26436 Filed 9-15-77;8:45 am]

[Docket No. FI-2847]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Wichita, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Wichita, Kans. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Wichita, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 200328A Panel 13, published on April 14, 1977, in 42 FR 19603, indictates that Lot 2, Block A, Rockborough Addition to Wichita, Kans., recorded on Deed Film 153, Page 914 in the Office of the Register of Deeds of Sedgwick County, Kans., is within the Special Flood Hazard Area. Map No. H 200328 Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 1, 1977.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26437 Filed 9-15-77;8:45 am]

[Docket No. FI-446]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Shreveport, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 13, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Shreveport, La. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Shreveport, La., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 220036A Panel 28, published on January 13, 1975, in 40 FR 2427, indicates that the existing structures on Lots 43, 61, 80, 81, 87, and 88, Shreveport, La., as recorded in Book 1500, Page 19, of the records of Caddo Parish, La., are within the Special Flood Hazard Area.

Map No. H 220036A Panel 28 is hereby corrected to reflect the above property

is not within the Special Flood Hazard Area identified on January 3, 1975, and January 9, 1976.

(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.77-26438 Filed 9-15-77;8:45 am]

[Docket No. FI-539]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Mount Vernon, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 2, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Mount Vernon, Maine. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Mount Vernon, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 230241 Panel 01, published on April 2, 1975, in 40 FR 14756, indicates that Lot 8 of Pinewood Point Development, Mount Vernon, Maine, as recorded in Deedbook 2003, Page 242 at the Kennebec Registry of Deeds, Mount Vernon, Maine, is within the Special Flood Hazard Area.

Map No. H 230241 Panel 01 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Beginning at a point being the Southeast corner of Lot 8, Pinewood Point Development, described in the deed; recorded in Deedbook 2003, Page 242 at the Kennebec Registry of Deeds; thence on a bearing S. 85°30' W. a distance of approximately 200 feet; thence from this point on a bearing N. 9°00' W., approximately 100 feet to meet that line bearing N. 85°30' E. as described in said Deed; from this point continuing a distance of approximately 210 feet along this line on a bearing N. 85°30' E. to an iron pin being the Northeast corner of Lot 8; thence on a bearing S. 3°18' E., approximately 100 feet to the point of beginning,

is not within the Special Flood Hazard Area identified on April 18, 1975.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26439 Filed 9-15-77;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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 S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 77, published on November 29, 1974, in 39 FR 41504, indicates that Lots 4398 and 4399, Third Map of Woodland Beach, also being 410 Warwick Drive, Anne Arundel County, Md., as recorded in Platbook 8, Page 10, Plat Number 426, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., are within the Special Flood Hazard Area.

Map No. H 240008 Panel 77 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(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.77-26440 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Baltimore, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Spe-

cial Flood Hazard Areas. This list included Baltimore, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Baltimore, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240087 Panel 11, published on August 6, 1974, in 39 FR 28256, indicates that 223 East Biddle Street, Baltimore, Md., as recorded in Liber 3473 of Deeds, Page 487, in the office of Land Records of Baltimore City, Md., is within the Special Flood Hazard Area.

Map No. H 240087 Panel 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(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, 1968, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26441 Filed 9-15-77;8:45 am]

[Docket No. FI-552]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Talbot County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 16, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Talbot County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the county of Talbot, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240066 Panels 08 and 09, published on April 16, 1975, in 40 FR 17018, indicates that Buildings 1–2, 3–4, and 5–6 as shown on the Plat of Martingham Villas, dated April 1977, and prepared by J. R. McCrove, Jr., Inc.; and the Clubhouse-Pro Shop as shown on the topographic plat showing part of the land of Martingham Inn, Inc., dated February 1972, and prepared by J. R. McCrove, Jr., Inc., all being situated on a portion of the land described in the Deed recorded in Liber 508, Pages 314 through 328, in the Office of the Clerk of the Circuit Court for Talbot County, Md., is within the Special Flood Hazard Area.

Map No. H 240066 Panels 08 and 08 are hereby corrected to reflect that Building 1–2 and the Clubhouse-Pro Shop located on the above property are not within the Special Flood Hazard Area identified on April 25, 1975.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26442 Filed 9-15-77;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Annapolis, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Annapolis, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Annapolis, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from main-

taining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240009A Panel 03, published on August 6, 1974, in 39 FR 28255, indicates that Unit C-10, Hôrn Point Courts, being 11 Horn Point Court, Annapolis, Md., as recorded in Condominium Plat Book 56, Page 19, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240009A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26443 Filed 9-15-77;8:45 am]

[Docket No. FI-356]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Scituate, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 12, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Scituate, Mass. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the town of Scituate, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 250282 Panel 01, published on September 12, 1974, in 39 FR 32894, indicates that Lot A[1] on Land Court Subdivision Plan No. 15153[H], filed with Certificate of Title No. 12934, issued by the Plymouth Registry District of the Land Court, Mass., is within the Special Flood Hazard Area.

Map No. H 250282 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on September 6, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26444 Filed 9-15-77;8:45 am]

[Docket No. FI-2400]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Sharon, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On December 8, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Sharon, Mass. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the town of Sharon, Mass., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 250252A Panel 09, published on December 8, 1976 in 41 FR 53667, indicates that Lot 7, Sharon Estates, Section III, Sharon, Mass., is within the Special Flood Hazard Area. This property is recorded as Lot 7A, in Book 5305, Page 706, in the office of the Register of Norfolk County, Mass.

Map No. H 250252A Panel 09 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on November 19, 1976.

(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: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26445 Filed 9-15-77;8:45 am]

[Docket No. FI-403]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Harrison, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 19, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Harrison, Mich. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Township of Harrison, Mich., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 260123B Panel 03, published on November 14, 1974 in 39 FR 40569, indicates that Lot 173, Venice Shores Subdivision No. 2, located at 41509 Clairpoint, Harrison Township, Mich., as recorded in Volume 39 of Plats, Pages 46 and 47, in the office of the Register of Macomb County, Mich., is within the Special Flood Hazard Area.

Map No. H 260123B Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 8, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26446 Filed 9-15-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Springfield, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Springfield, N.J. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Township of Springfield, N.J. in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 345321A Panel 01, published on June 29, 1977 in 42 FR 33223, indicates that all of Lot 8 and the easterly one-half of Lot 7, Bryant Park, Section "B", located at 62 Rose Avenue, Springfield, N.J., as recorded as No. 301–A in the office of the Register of Union County, N.J., are within the Special Flood Hazard Area.

Map No. H&I 345321A Panel 01 is hereby corrected to reflect that the existing structure on the above property is within Zone B and is not within the Special Flood Hazard Area identified on October 13, 1971.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26447 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to pur-

chase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973, in 38 FR 22776, indicates that Lot 20, Block 4405, at 420 Lucille Court, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 11–E, Block 317, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26448 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 3, Block 4706, at 724 Howard Road, Ridgewood, N.J., as shown on the Ridgewood Tax Map, is within the Special Flood Hazard Area. The property is also described as Lot 3 in Block 340–A, on Book 4688, Page 128, of Deeds, in the Office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26449 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazards Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is within the Special Flood Hazard Area.

EFFECTIVE DATE: Date of this notice.

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 text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 02, published on August 24, 1973, in 38 FR 22776, indicates that Lot 29, Block 3201, located at 289 Meadowbrook Avenue, Ridgewood, N.J., as shown on the Tax Assessor's Map, is located within the Special Flood Hazard Area. This property is recorded as Lot No. 29, Block No. 185, in Book 5785, Page 301, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 02 is hereby corrected to reflect the above property is within the Special Flood Hazard Area, as identified on August 31, 1973.

(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.77-26450 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood in-

surance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that the property known as 123 South Irving Street, Ridgewood, N.J., as recorded in Book 5403, Pages 248 through 251, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area. The property is also described as Lot 25, Block 4005, on the Tax Assessor's Map of Ridgewood.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(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: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26451 Filed 9-15-77;8:45 am]

[Docket No. FI-2367]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Washington, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 15, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Washington, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the township of Washington, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340080 Panel 06, published on October 15, 1976 in 41 FR 45520, indicates that Lot 47, Block 4411, Fairwood Homes, at 115 Honeysuckle Drive, Washington Township, N.J., as recorded on Map No. 4933, in the Office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340080 Panel 06 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 5, 1976.

(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, 1969), 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.77-26452 Filed 9-15-77;8:45 am]

[Docket No. FI-2367]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Washington, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 15, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the township of Washington, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Township of Washington, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340080 Panel 04, published on October 15, 1976 in 41 FR 45520, indicates that Lot 40, Block 4411, Fairwood Homes, at 175 Honeysuckle Drive, Washington Township, N.J., as recorded on Map No. 4933, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340080 Panel 04 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on November 5, 1976.

(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.77-26453 Filed 9-15-77;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 orf toll free line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 46, Block 3505, at 1103 East Ridgewood Avenue, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 41, Block 194, in Book 3217, Page 253, in the office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26454 Filed 9-15-77;8:45 am]

[Docket No. FI-2245]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Waldwick, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 11, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Waldwick, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Waldwick, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of Letter of map amendment.

Map No. H 340078A Panel 02, published on August 11, 1976, in 41 FR 33913, indicates that Lot 22, Block 73, at 4 Ackerman Street, Waldwick, N.J., as recorded in Book 6036, Pages 320 and 321, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340078A Panel 02 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on January 9, 1974.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26455 Filed 9-15-77;8:45 am]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Wyckoff, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Township of Wyckoff, N.J. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the Township of Wyckoff, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the existing structure on the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for

that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Asociation (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of Letter of map amendment.

Map No. H&I 340084A Panel 0001, published on June 29, 1977, in 42 FR 33224, indicates that Lot 59, Block 346, Stagg Brook Section 6, at 456 George Place, Wyckoff, N.J., recorded as Map No. 6726, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H&I 340084A Panel 0001 is hereby corrected to reflect the existing structure on the above property is in Zone C and is not within the Special Flood Hazard Area identified on August 1, 1977.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26456 Filed 9-15-77;8:45 am]

[Docket No. FI-73-4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 12, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Allendale, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Allendale, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340019 Panel 02, published on March 12, 1973, in 38 FR 6679, indicates that Lot 15, Block 1406 as shown on the Borough Tax Assessment Map is located within the Special Flood Hazard Area. This property is recorded as 321 Brookside Avenue, Allendale, N.J., in Book 5748, Pages 49 and 50, in the office of the Clerk of Bergen County, N.J.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on March 12, 1973.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26457 Filed 9-15-77;8:45 am]

[Docket No. FI-73-4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 12, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Allendale, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Allendale, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340019 Panel 02, published on March 12, 1973, in 38 FR 6679, indicates that Lot 18, Block 1406, located at 279 Brookside Avenue, Allendale, N.J., as recorded in Book 6041, Pages 199 and 200, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on March 16, 1973.

(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: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26458 Filed 9-15-77;8:45 am]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Las Cruces, N. Mex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Las Cruces, N. Mex. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Las Cruces, N. Mex., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

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: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 355332B Panels 07 and 10, published on June 29, 1977, in 42 FR 33224, indicate that Tract 27–A–1; and Lots 1 through 12, Block 1, and Lots 1 through 12, Block 3, College View Subdivision, Las Cruces, N. Mex., as recorded in Book 197, Pages 318 and 319, in the office of the Clerk of Dona Ana County, N. Mex., are within the Special Flood Hazard Area.

Map No. H&I 355332B Panels 07 and 10 are hereby corrected to reflect that Lots 1 through 12, Block 1 and Lots 1 through 12, Block 3, College View Subdivision, and the portion of Tract 27–A–1 described as follows:

Beginning at the intersection of Farney Lane and El Paseo Road; thence East along the South boundary of Farney Lane a distance of 560 feet; thence South a distance of 1,090 feet; thence West a distance of 535 feet, to El Paseo Road; thence North along the East boundary of El Paseo Road, a distance of 1,090 feet, to the point of beginning,

are within Zone C and are not within the Special Flood Hazard Area identified on June 11, 1971.

(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: August 11, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-26459 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

METHADONE REGULATIONS

Recodification

Title 21—Food and Drugs

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

[Recodification Docket No. 17; Docket No. 77N-0214]

SUBCHAPTER C—DRUGS: GENERAL

PART 291—DRUGS USED FOR TREATMENT OF NARCOTIC ADDICTS

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

Recodification of Methadone Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document transfers all Food and Drug Administration (FDA) methadone regulations to a single part. This new part is established for regulations pertaining to methadone to furnish ample room for reorganization and future expansion and to provide a vehicle whereby substantive changes to such regulations may be made jointly by FDA and the National Institute on Drug Abuse (NIDA), consistent with the joint delegation of authority by the Secretary of Health, Education, and Welfare.

EFFECTIVE DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Buddy F. Stonecipher, Bureau of Drugs (HFD-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (303-443-3414).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is transferring former § 290.35 *Methadone in the maintenance treatment of narcotic addicts* and § 310.505 *Conditions for use of methadone* to new Part 291—Drugs Used for Treatment of Narcotic Addicts. The redesignations are as follows:

Old section:	New section
290.35	291.501
310.505	291.505

The changes being made are nonsubstantive. For this reason, notice and public procedure are not prerequisites to this action. For the convenience of the user, the entire text of new Part 291, as well as a conforming cross-reference amendment to § 310.304, is set forth below.

Dated: September 9, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

Secs.

291.501 Methadone in the maintenance treatment of narcotic addicts.
291.505 Conditions for use of methadone.

AUTHORITY: Secs. 505, 701(a), Pub.L. 717, 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a)); sec. 303(a), Pub.L. 410, 70 Stat. 929 as amended (42 U.S.C. 242a(a)); sec. 4, Pub. L. 91-513, 84 Stat. 1241 (42 U.S.C. 257a).

§ 291.501 Methadone in the maintenance treatment of narcotic addicts.

(a) The Food and Drug Administration and the Drug Enforcement Administration recognize that the investigational use of methadone requiring the prolonged maintenance of narcotic dependence as part of a total treatment effort has shown promise in the management and rehabilitation of selected narcotic addicts. It is also recognized that a number of dangers and possible abuses may arise from such efforts if professional services and controls are inadequately applied. It is further felt that additional research is urgently needed so that data may be accumulated which will permit sound determinations of safety, efficacy, and necessary procedural safeguards.

(b) Therefore, the Commissioner of Food and Drugs and the Director of the Drug Enforcement Administration, Department of Justice, agree that interested professionals, municipalities, and organizations should be allowed to conduct further research in this area within a framework of adequate controls designed to protect the individual patients and the community. To facilitate this purpose, the Food and Drug Administration and the Drug Enforcement Administration, Department of Justice, have jointly agreed upon acceptable criteria and guidelines which are set forth in § 291.505. In addition, such other provisions of the Federal narcotic laws and regulations as are applicable must also be observed.

§ 291.505 Conditions for use of methadone.

(a) *Definitions.* (1) An individual is "drug dependent" when his addiction reaches a stage where a daily administration of heroin or other morphine-like drugs is required to avoid the onset of signs of withdrawal.

(2) "Detoxification treatment" using methadone is the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of these drugs.

(3) "Maintenance treatment" using methadone is the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin. An eventual drug free state is the treatment goal for patients but it is recognized that for some patients the drug may be needed for long periods of time.

(4) "State authority" means the State authority designated pursuant to section 409 of Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, or in lieu thereof any other State authority designated by the Governor for purposes of exercising the authority under this section. If no State authority is so designated, the provisions in this section relating to approval by the State authority shall be inapplicable with respect to that State.

(b) *Organizational structures and approval requirements*—(1) *Methadone treatment program*—(i) *Defined.* A methadone treatment program is defined as a person or organization furnishing a comprehensive range of services using methadone for the detoxification and/or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations. If there is a centralized organizational structure, consisting of a primary facility and other outpatient facilities, all of which conduct initial evaluation of patients and administer or dispense medication, both the primary facility and each outpatient facility shall be considered a separate program, even though some services may be shared (e.g. the same hospital or rehabilitative services).

(ii) *Services.* A methadone treatment program, in addition to providing medication and/or evaluation, shall provide, as a minimum, counseling, rehabilitative, and other social services (e.g. vocational and educational guidance, employment placement), which will help the patient become a well functioning member of society. These services should normally be made available at the primary outpatient facility, but the program sponsor is permitted to enter into a formal, documented agreement with private or public agencies, organizations or institutions for these services if they are available elsewhere. Evidence will be required to demonstrate that the services are fully available and are being utilized.

(iii) *Hospital affiliation.* If a program is not physically located within a hospital which has agreed to provide any needed medical care for drug related problems for the program's patients, there shall be a formal, documented agreement between the program sponsor and a responsible hospital official demonstrating that hospital care, both inpatient and outpatient, is fully available to any patient who may need it for such problems. It is suggested that the program sponsor enter into an agreement with the hospital official to provide general medical care for patients. Neither the program sponsor nor the hospital are required to assume financial responsibility for the patient's medical care.

(iv) *Private practitioners.* A private practitioner constitutes a separate program if he conducts initial evaluation of patients, administers and dispenses medication, provides a comprehensive range of services, and otherwise meets all of the requirements for a program established in this section. A private practitioner who qualifies and is approved as a program is permitted to serve as many patients as he desires, but will be required to meet all the requirements of this regulation, including staffing requirements, unless permission is granted by the Food and Drug Administration and the State authority for exemption from or revision of these requirements.

(v) *Program approval.* In order lawfully to operate a methadone treatment program, each separate program, whether an out-patient facility or a private practitioner, shall submit the ap-

plications specified in this section simultaneously to the Food and Drug Administration and the State authority and shall receive the approval of both, except as provided for in paragraph (h)(5) of this section. Before granting approval the Food and Drug Administration will first consult with the Drug Enforcement Administration, Department of Justice, to determine compliance with Federal controlled substances laws. Each physical location within any program shall be identified and listed in the approval application. At the time of application for approval the program sponsor shall indicate whether medication will be administered or dispensed at the facility. If medication is to be administered or dispensed at a location not previously used for this purpose, prior approval from both agencies shall be obtained. If a facility in which medication is administered or dispensed is deleted by a program the Food and Drug Administration and the State authority shall be notified within 3 weeks. Addition or deletion of facilities which provides services other than administering or dispensing medication is permitted with notification within 3 weeks to the Food and Drug Administration and the State authority.

(2) *Methadone treatment medication unit*—(i) *Defined.* A methadone treatment "medication unit" is a facility, established by a program sponsor as part of his program, from which licensed private practitioners and community pharmacists are permitted to administer and dispense methadone. These medication units may also collect urine for urine testing for narcotic drugs. Any such facility shall be geographically dispersed from the primary facility and other medication units that have been established. The enrollment in a medication unit shall be of reasonable size in relation to the space available for treatment and the size of the staff at the facility, and may not exceed 30 patients.

(ii) *Referral.* The patient shall be stabilized at his optimal dosage level before he may be referred to a medication unit. Since the medication unit will not provide a range of services, the program sponsor shall determine that the patient to be referred is not in need of frequent counseling, rehabilitative, and other services which are only available at the primary program facility. A patient may not be referred to a medication unit before he has demonstrated progress towards rehabilitation. The nature of this progress shall be entered in the patient's record.

(iii) *Responsibility for patient.* After a patient is referred to a medication unit, the program sponsor retains continuing responsibility for the patient's care. The program sponsor is responsible for assuring that the patient reports weekly for urinalysis at either the primary facility or the medication unit and receives needed medical and social services at least monthly at the primary facility.

(iv) *Services.* Medication units are limited to the administering or dispensing of medication and the collection of urine for urine testing, following the procedures outlined in paragraph (d)(6)(ii) of this section. If a private practitioner wishes to provide other services in addition to administering or dispensing medication and collecting urine samples, he shall be considered a program and shall be required to submit an application for separate approval.

(v) *Medication unit approval.* In order lawfully to operate a medication unit, the program shall obtain approval for each separate unit from both the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section. Approval will be based on the distribution of these units within a particular geographic area. Any new medication unit shall receive such approval before commencing operation.

(vi) *Revocation of approval.* If the primary program's approval is revoked by the Food and Drug Administration the approval for the medication unit is automatically revoked. If a particular medication unit's approval is revoked, the approval of the primary program will remain in effect unless it is also revoked.

(vii) *Methadone supply.* The medication unit will receive its supply of the drug directly from the stocks of the primary facility. Only persons permitted to administer or dispense the drug or security personnel licensed or otherwise authorized by State law may deliver the drug to a medication unit.

(3) *Organizational structure; central administration.* (i) The program sponsor shall submit to the Food and Drug Administration and the State authority a description of the organizational structure of the program applying for approval, listing the name of the person responsible for the particular program, the address, and the responsibilities of each facility or medication unit. The sources of funding for each program shall be listed and the name and address of each governmental agency providing funding shall be stated.

(ii) Where two or more programs share a central administration (e.g., a city or state-wide organization), the person responsible for the organization (Administrator) shall be listed as program sponsor for each separate program participating. An individual program shall indicate its participation in the central organization at the time of its application. The Administrator is permitted to fulfill all recordkeeping and reporting requirements for these programs, but it is emphasized that the programs will continue to receive separate approval.

(iii) One individual is permitted to assume primary medical responsibility for more than one program and be listed as medical director. If an individual assumes medical responsibility for more than one program, the feasibility of such an arrangement shall be documented and attached to the application.

(4) *Prohibition against unapproved use of methadone.* No individual, practitioner, organization, or legal entity, may prescribe, administer, or dispense methadone for narcotic addict treatment without prior approval by the Food and Drug Administration and the State authority, except as provided for in paragraph (h)(5) of this section, unless specifically exempted by this section.

(c) *Conditions for approval of the use of methadone in a treatment program*—(1) *Applicants.* An individual listed as program sponsor for a treatment program using methadone need not personally be a licensed practitioner but shall employ a licensed physician for the position of medical director. Persons responsible for administering or dispensing the medication shall be practitioners as defined by section 102(20) of the Controlled Substances Act (21 U.S.C. 802(20)) licensed to practice by the State in which the program is to be established.

(2) *Assent to regulation.* A person who sponsors a methadone treatment program, and any person responsible for a particular program, shall agree to adhere to all the rules, directives, and procedures, set forth in this regulation, and any regulation regarding the use of methadone which may be promulgated in the future. The program sponsor, and person responsible for a particular program, shall agree to assume responsibility for any practitioners, employees, agents, or other individuals providing services, who work in their programs at the primary facility or at other facilities or medication units. The responsible persons shall agree to inform these people of the provisions of this regulation and to monitor their activities to assure compliance with the provisions. The Food and Drug Administration and the State authority shall be notified within 3 weeks of any replacement of the program sponsor or medical director. Activities in violation of this regulation may give rise to the sanctions set forth in paragraph (i) of this section.

(3) *Facilities.* To obtain program approval, the applicant shall demonstrate that he will have access to adequate physical facilities to provide all necessary services. The physical facilities should be sufficiently spacious and well maintained to provide appropriate conditions for conducting individual and/or group counseling.

(4) *Submission of proper applications.* The following applications shall be filed simultaneously with both the Food and Drug Administration and the State authority.

(i) Form FD-2632 "Application for Approval of Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(1) of this section, shall be completed and signed by the program sponsor and submitted in triplicate to the Food and Drug Administration and the State authority.

(ii) Form FD-2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program." This form, set forth in paragraph (k)(2) of this section, shall be completed and signed by each licensed physician authorized to administer or dispense methadone and submitted in triplicate to the Food and Drug Administration and the State authority. The names of any other persons licensed by law to administer or dispense narcotic drugs working in the program shall be listed, even if they are not at

present responsible for administering or dispensing the drug.

(iii) Form FD-2634 "Annual Report for Treatment Program Using Methadone." This form, set forth in paragraph (k)(3) of this section, shall be completed and signed by the program sponsor for every program over which he has responsibility for each calendar year of operation. It shall be submitted in triplicate to the Food and Drug Administration and the State authority on or before January 30 of each year.

(5) *State and Federal approval of treatment programs.* Treatment programs using methadone shall have been reviewed by the State authority and must conform to all State requirements for conducting a methadone treatment program. The Food and Drug Administration must have received notification of the program's approval by the State agency. Only after the State authority has given its approval will the Food and Drug Administration grant approval to a program. The Food and Drug Administration will also revoke approval when recommended by the State authority. If State approval of a program is denied or revoked the program shall have a right of appeal to the Commissioner, as provided for in paragraph (h)(5) of this section. Prior to granting or withholding approval, the Food and Drug Administration will consult with the Drug Enforcement Administration, Department of Justice, to determine the applicant's compliance with Federal controlled substances laws. No shipment of methadone may lawfully be made to any program which has not received approval from the Food and Drug Administration. The program sponsor will receive notification of approval or denial or a request for additional information, when necessary, within 60 days after receipt of the application by the Food and Drug Administration.

(d) *Requirements for operation of methadone treatment program*—(1) *Description of facilities.* A program shall have ready access to a comprehensive range of medical and rehabilitative services. The name, address, and description of each hospital, institution, clinical laboratory, or other facility available to provide the necessary services shall be given to the Food and Drug Administration and the State authority. This listing shall include the name and address of each medication unit.

(2) *Approximate number of patients to be treated.* The program sponsor shall submit to the Food and Drug Administration and the State authority an approximation of the number of patients who will be treated, based on past history, addict population in the area, treatment capacity, or other relevant information.

(3) *Minimum admission standards*—(i) *Voluntary participation; consent form.* Each patient shall be fully informed concerning the possible risk associated with the use of methadone. Participation in any program shall be voluntary. The person responsible for the program shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under age 18) sign, with full knowledge and understanding of its contents, the first part of Form FD-2635 "Consent for Methadone Treatment" set forth in paragraph (k)(4) of this section and the parents or guardians of patients under age 18 sign the second part of that form.

(ii) *Physiologic addiction standards; records.* The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (e.g., medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

(iii) *Exceptions to physiologic addiction standards and special age limitations; justification.* An exception to the requirement for documented evidence and history of current physiologic dependence on heroin or other morphine-like drugs set forth in paragraph (d)(3)(ii) of this section or to the age limitations set forth in paragraph (d)(3)(iv) of this section will be allowed under the following exceptional circumstances. Justification for any of the exceptions shall be noted in the patient's record.

(*a*) Maintenance treatment may be indicated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution, if an individual has a predetention history of dependence upon heroin or other morphine-like drugs for at least 2 years prior to admission to the institution.

(*b*) Pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed in a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether she should remain in a maintenance program or be detoxified.

(iv) *Special limitations; treatment of patients under age 18.* (*a*) The safety and effectiveness of methadone when used in the treatment of adolescents has not been proven by adequate clinical study. Special procedures are therefore necessary to assure that patients under age 16 will not be admitted to a program and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

(*b*) Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on the date of publication of this regulation may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after the date of publication of this regulation unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs Form FD-2635 "Consent to Methadone Treatment," set forth in paragraph (k)(4) of this section. Methadone treatment of new patients between the ages of 16 and 18 years will be permitted after December 15, 1972, only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after December 15, 1972, but these patients may be detoxified and retained in the program in a drug free state for follow-up and after care.

(*c*) Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

(v) *Denial of admission.* If in the professional judgment of the medical director a particular patient would not benefit from methadone treatment, he may be refused such treatment even if he meets the admission standards.

(vi) *Patient evaluation; admission record.* An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations indicated in the judgment of the attending physician. It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.

(*a*) *Personal history.* A personal history record will be completed for each patient accepted for admission and will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types and prior treatment for drug abuse.

(*b*) *Medical history.* A thorough medical history record will be completed for each patient accepted for admission.

(c) *Physical examination.* The findings of a comprehensive physical examination will be recorded.

(4) *Staffing requirements.* As a minimum standard for the staffing of a treatment program there shall be the equivalent of one full-time physician licensed by and registered by State or Federal law to order, dispense, and administer methadone, two nurses (registered nurse or licensed practical nurse), and four counselors, for every 300 patients receiving maintenance treatment. The staffing pattern may be varied to fit the operational pattern and population characteristics of the program, but there shall always be at least one medical or osteopathic physician available for initial medical evaluation and follow-up care and to supervise the patient medication schedules for each 300 patients. This staffing pattern is not the recommended pattern, but the minimum staffing pattern acceptable.

(5) *Access to a range of services.* A treatment program shall provide a comprehensive range of medical and rehabilitative services to its patients. These services normally should be provided at the primary facility, but the program sponsor may enter into formally documented agreements with other public or private agencies, institutions, or organizations to render these services. Such facilities must be located so as to provide ease of access to the patient. Any service not furnished at the primary facility shall be listed, and the agreements to furnish those services shall be documented, when application for approval is submitted to the Food and Drug Administration and the State authority. Modification of the services shall be submitted in triplicate to the Food and Drug Administration as services are added or deleted.

(6) *Minimum procedures for ongoing care*—(i) *Dosage and administration requirements*—(a) *Form; packaging.* The methadone shall be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physican's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage will be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

(b) *Detoxification treatment.* In detoxification the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but could be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

(c) *Maintenance treatment; special considerations for a pregnant patient.* (1) In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs, but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxication. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g. if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be administered as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, up to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on the date this regulation becomes effective who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams, prior approval from State authority and the Food and Drug Administration shall be obtained beginning on March 15, 1973. For take-home doses above 100 milligrams per day, prior approval from the State authority and the Food and Drug Administration shall be obtained beginning on June 13, 1973. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

(2) Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

(d) *Authorized dispensers of methadone; responsibility.* Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule will be recorded and signed by the licensed practitioner.

(7) *Frequency of attendance; take-home medication*—(i) *For detoxification, the drug shall be administered daily under close observation.* In maintenance treatment the patient will initially ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months, and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under

observation with a 3-day take-home supply. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under observation may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In these circumstances the reasons for providing additional medication will be recorded. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g. a licensed practitioner) may deliver or obtain the medication.

(ii) *Urine testing—(a) Schedule of testing; substances tested for.* In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected at the program's primary facility or at the medication unit.

(b) *Method of collection.* Urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated.

(c) *Laboratories.* Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

(iii) *Patient's clinical record.* An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD-1639, "Drug Experience Report," any significant physical or psychological disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record(s).

(8) *Discontinuation of methadone use.* All patients in treatment will be given careful consideration for discontinuation of methadone use, especially after reaching a 10–20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

(9) *Record of drug dispensing.* Accurate records traceable to specific patients shall be maintained showing dates, quantity, and batch or code marks of the drug dispensed. These records shall be retained for a period of 3 years.

(10) *Security of drug stocks.* Adequate security shall be maintained over stocks of methadone, over the manner in which it is administered or dispensed, over the manner in which it is distributed to medication units, and over the manner in which it is stored to guard against theft and diversion of the drug. The security standards for the distribution and storage of controlled substances as required by the Drug Enforcement Administration, Department of Justice (§§ 1301.72–1301.76 of this title) shall be met by the program.

(11) *Inspections of programs; patient confidentiality.* Inspection of a program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except (i) when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provision of 42 CFR Part 2 shall be followed.

(12) *Exemptions from specific program standards.* (i) A program is permitted, at the time of application or any time thereafter, to request exemption from or revision of specific program standards. The rationale for an exemption or revision shall be thoroughly documented in an appendix to be submitted with the application or at some later time. An example of a case in which an exemption might be granted would be for a private practitioner who wishes to treat a limited number of patients and requests exemption from some of the staffing and service standards in a nonmetropolitan area with few physicians and no rehabilitative services geographically accessible. The Food and Drug Administration will approve such exemptions or revisions of program standards at the time of application with the concurrence of the State authority.

(ii) The Food and Drug Administration has the right to withhold the granting of an exemption until such time as a program is in actual operation in order to assess if the exemption is necessary. If periodic inspections of the program reveal that discrepancies or adverse conditions exist, the Food and Drug Administration shall reserve the right to revoke any or all exemptions previously granted.

(13) *Additional reporting requirements*—(i) *Deaths.* The program sponsor shall report any patient death which is considered methadone related to the Food and Drug Administration within 2 weeks, using Form FD-1639 "Drug Experience Report."

(ii) *Newborns.* The program sponsor shall report to the Food and Drug Administration the birth of any child to a female patient, if the newborn is premature or shows any adverse reactions which, in the opinion of the attending physician, are due to methadone, within 1 month of the birth, using Form FD-1639 "Drug Experience Report."

(e) *Multiple enrollments*—(1) *Administering or dispensing to patients enrolled in other programs.* There is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone for the purpose of self-administration or illicit marketing. Therefore, except in an emergency situation, methadone shall not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone.

(2) *Patient attendance requirements.* The patient shall always report to the same treatment facility unless prior approval is obtained from the program sponsor for treatment at another program. Permission to report for treatment at the facility of another program shall be granted only in exceptional circumstances and shall be noted on the patient's clinical record.

(f) *Conditions for use of methadone in hospitals for detoxification and for temporary maintenance treatment*—(1) *Form.* The drug may be administered or dispensed in either oral or parenteral form.

(2) *Use of methadone in hospitals*—(i) *Approved uses.* Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay or whose enrollment in a program which has approval for maintenance treatment using methadone has been verified. Any hospital which already has received approval under this paragraph (f) may be permitted to serve as a temporary methadone treatment program when an approved methadone treatment program has been terminated and there is no other facility immediately available in the area to provide methadone treatment for the patients. The Food and Drug Administration may give this approval upon the request of the State authority or the hospital, when no State authority has been established.

(ii) *Individual responsible for supplies.* The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone for narcotic addict treatment shall be submitted to the Food and Drug Administration and the State authority. Individuals not authorized by Federal or State law shall not receive supplies of methadone.

(iii) *General description.* A general description of the hospital including the number of beds, specialized treatment facilities for drug dependence, and nature of patient care undertaken shall be submitted.

(iv) *Anticipated quantity of drug needed.* The anticipated quantity of methadone for narcotic addict treatment needed per year shall be submitted.

(v) *Records.* The hospital shall maintain accurate records showing dates, quantity, and batch or code marks of the drug used for inpatient treatment. The records shall be retained for a period of 3 years.

(vi) *Inspections.* The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential except (*a*) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (*b*) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (*c*) when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of 42 CFR Part 2 shall be followed. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(vii) *Approval of hospital pharmacy.* Application for a hospital pharmacy to provide methadone for detoxification and temporary treatment will be submitted to the Food and Drug Administration and the State authority and shall receive approval from both, except as provided for in paragraph (h)(5) of this section. Within 60 days after receipt of the application by the Food and Drug Administration, the applicant will receive notification of approval or denial or a request for additional information, when necessary.

(viii) *Approval of shipments to hospital pharmacies.* Before a hospital pharmacy may lawfully receive shipments of methadone for detoxification or temporary maintenance treatment, a responsible hospital official shall complete, sign, and file in triplicate with the Food and Drug Administration and the State authority Form FD-2636, "Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment" set forth in paragraph (k)(5) of this section and shall receive a notice of approval thereof from the Food and Drug Administration.

(ix) *Sanctions.* Failure to abide by the requirements described in this section may result in revocation of approval to receive shipments of methadone for narcotic addict treatment, seizure of the drug supply on hand, injunction, and criminal prosecution.

(g) *Confidentiality of patient records.* (1) Except as provided in paragraph (g)(2) of this section, disclosure of patient records maintained by any program shall be governed by the provisions of 42 CFR Part 2, and every program shall comply with the provisions of that part. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(2) In addition to the restrictions upon disclosure in 42 CFR Part 2, and in accordance with the authority conferred by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), every program is hereby further authorized to protect the privacy of patients therein by withholding from all persons not employed by such program or otherwise connected with the conduct of its operations the names or other identifying characteristics of such patients under any circumstances under which such program has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of a patient. Programs may not be compelled in any Federal, State, or local civil, criminal, administrative, or other proceedings to furnish such information, but this subparagraph does not authorize the withholding of information authorized to be furnished pursuant to 42 CFR Part 3 nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by Federal controlled substances laws; but use or disclosure of records identifying patients will, in any case, be limited to actions involving the program or its personnel.

(3) A treatment program or medication unit or any part thereof, including any facility or any individual, shall permit a duly authorized employee of the Food and Drug Administration to have access to and to copy all records relating to the use of methadone. Patient identities shall be revealed (i) when it is necessary to make follow-up investigations on adverse effect information related to the drug, (ii) when the medical welfare of the patient would be threatened by a failure to reveal such information, or (iii) when it is necessary to verify records relating to any approval or any portion thereof under this section. The Food and Drug Administration will retain such identities in confidence pursuant to 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

(h) *Denial or revocation of approval.* (1) Complete or partial denial or revocation of approval of an application to receive shipments of methadone (Forms FD-2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD-2636 "Hospital Request for Methadone for Detoxification and Maintenance Treatment") may be proposed to the Commissioner of Food and Drugs by the Director of the Food and Drug Administration's Bureau of Drugs, on his own initiative or at the request of representatives of the Drug Enforcement Administration, Department of Justice, National Institute of Mental Health, the State authority, or any other interested person.

(2) Before presenting such a proposal to the Commissioner, the Director of the Bureau of Drugs or his representative will notify the applicant in writing of the proposed action and the reasons therefor and will offer him an opportunity to explain the matters in question in an informal conference and/or in writing within 10 days after receipt of such notification. The applicant shall have the right to hear and to question the information on which the proposal to deny or revoke approval is based, and may present any oral or written information and views.

(3) If the explanation offered by the applicant is not accepted by the Bureau of Drugs as sufficient to justify approval of the application, and denial or revocation of approval is therefore proposed, the Commissioner will evaluate information obtained in the informal hearing before the Director of the Bureau of Drugs. If he finds that the applicant has failed to submit adequate assurance justifying approval of the application, he

shall issue a notice of opportunity for hearing with respect to the matter pursuant to § 314.200 of this chapter and the matter shall thereafter be handled in accordance with established procedures for denial or revocation of approval of a new drug application. If the Secretary determines that there is an imminent hazard to health, revocation of approval will become effective immediately and any administrative procedures will be expedited. Upon revocation of approval of an application, the Commissioner will notify the applicant, the State authority, the Drug Enforcement Administration, Department of Justice, and all other appropriate persons that the applicant may no longer receive shipments of methadone, and will require the recall of all methadone from the applicant. Revocation of approval may also result in criminal prosecution.

(4) Denial or revocation of approval may be reversed when the Commissioner determines that the applicant has justified approval of the application.

(5) A treatment program or medication unit or any part thereof, including any facility or any individual, may appeal to the Food and Drug Administration a complete or partial denial or revocation of approval by the State authority unless the denial or revocation is based upon a State law or regulation. The appeal shall first be made to the Director of the Bureau of Drugs, who shall hold an informal conference on the matter in accordance with paragraph (h)(2) of this section. The State authority may participate in the conference. The appellant or the State authority may appeal the Director's decision to the Commissioner, who shall decide the matter in accordance with paragraph (h)(3) of this section. If the Commissioner denies or revokes approval, such action shall be handled in accordance with paragraph (h)(3) of this section. The Commissioner may not grant or retain Food and Drug Administration approval if he finds that the appellant is not in compliance with all applicable State laws and regulations and with this section.

(i) *Sanctions*—(1) *Program sponsor or individual responsible for a particular program.* If the program sponsor or the person responsible for a particular program fails to abide by all the requirements set forth in these regulations, or fails to adequately monitor the activities of those employed in the program, he may have the approval of his application revoked, his methadone supply seized, an injunction granted precluding operation of his program, and criminal prosecution instituted against him.

(2) *Persons responsible for administering or dispensing methadone.* If a person responsible for administering or dispensing methadone for narcotic addict treatment fails to abide by all the requirements set forth in these regulations, criminal prosecution may be instituted against him, his drug supply may be seized, the approval of the program may be revoked, and an injunction may be granted precluding operation of the program.

(j) *Requirements for distribution by manufacturers of methadone for narcotic addict treatment*—(1) *Distribution requirements.* Shipments of methadone for narcotic addict treatment are restricted to direct shipments by manufacturers of methadone to approved treatment programs using methadone and to approved hospital pharmacies. If requested by a manufacturer or State authority, wholesale pharmacy outlets in some regions or States may be authorized to stock methadone for narcotic addict treatment for that area and then trans-ship the drug to approved methadone treatment programs and approved hospital pharmacies. Alternative methods of distribution will be permitted if they are approved by the Food and Drug Administration and the State authority. Prior to any approval of an alternative method of distribution there will be consultation with the Drug Enforcement Administration, Department of Justice, to assure compliance with its regulations regarding controlled substance distribution.

(2) *Information regarding approved programs and hospitals.* The Food and Drug Administration will provide methadone manufacturers and the public with names and locations of programs and hospitals that have been approved to receive shipments of methadone for narcotic addict treatment. All information contained in the forms set out in paragraph (k) of this section is available for public disclosure except for names or other identifying information with respect to patients.

(3) *Acceptance of delivery.* Delivery shall only be made to a licensed practitioner employed at the facility. At the time of delivery the licensed practitioner shall sign for the methadone and place his specific title and identification number on any invoice. Copies of these signed invoices shall be kept by the manufacturer.

(k) *Program forms*—(1) *Treatment program application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD-2632 Application for Approval of Use of Methadone in a Treatment Program

Name or other identification of program.....

Address .....

Name of program sponsor.....

Commissioner,
Food and Drug Administration,
Bureau of Drugs (HFD-106),
Rockville, MD 20857.

DEAR SIR: As the person responsible for this program, I submit this request for approval of a treatment program using methadone to provide detoxification and maintenance treatment for narcotic addicts in accordance with § 291.505 of the new drug regulations. I understand that failure to abide by the requirements described below may cause revocation of approval of my application, seizure of my drug supply, an injunction, and criminal prosecution.

I. Attached is the name, complete address, and a summary of the scientific training and experience of each physician and all other professional personnel having major responsibilities for the program and rehabilitative efforts, and a singed Form FD-2633 "Medical Responsibility Statement for Use of Methadone in a Treatment Program" for every licensed practitioner authorized to prescribe, dispense, or administer methadone under the program. (If the Medical Director of this program has been listed for a program in a previous application, the feasibility of serving as Medical Director for this program must be documented and this documentation attached to this application.)

II. Attached is a description of the organizational structure of this program and the name and complete address of any central administration or larger organizational structure to which this program is responsible.

III. Attached is a listing of the sources of funding for this program. (The name and address for each governmental agency providing funding must be provided.)

IV. The program shall have ready access to a comprehensive range of medical and rehabilitative services. Attached is the name, address, and description of each hospital, institution, clinical laboratory facility, or other facility available to provide the necessary services and a statement for each facility as to whether or not methadone will be administered or dispensed at that facility. These facilities shall comply with any guidelines established by Federal or State authorities. (This listing should include the address of each medication unit. If any medical or rehabilitative service is not available at the primary facility, there must be a formal, documented agreement with private or public agencies, organizations, or institutions for these services.)

V. Attached is a statement of the approximate number of addicts to be included in the program.

VI. The following minimal treatment standards shall be followed:

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD-2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. I concur that the mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. (Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation—(medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.)

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs or to the age limitation will be allowed under the following exceptional circumstances: (1) Methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution if an individual has a predetention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution, or (2) pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed on a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after the termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether the patient should remain in a maintenance program or be detoxified. Justification for any such exception shall be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 15, 1973 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment program after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form, Form FD-2635 "Consent to Methadone Treatment." Methadone treatment of new patients between the ages of 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

VII. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

VIII. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system exists and I state my intention to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XV of this form, information that could identify the patient will be kept confidential in compliance with 42 CFR Part 2.

IX. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, sirup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address, and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15-20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. Forty milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2-day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10-milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may be a pharmacist, registered nurse, or licensed practical nurse, depending upon the State regulations regarding narcotic drug dispensing and administering. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education, or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to 3 times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2 day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3 day take-home supply.

Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for urine testing shall participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD-1639, "Drug Experience Report", any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For recordkeeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone, especially after reaching a 10-20 milligram dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

X. To prevent diversion into illicit channels, adeqaute security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Drug Enforcement Administration, Department of Justice.

XI. Accurate records traceable to patients shall be maintained showing dates, quantity, and batch or code marks of the drug used. These records shall be retained for a period of 3 years.

XII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the program director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

XIII. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

XIV. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Drug Enforcement Administration, Department of Justice.

XV. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 42 CFR Part 2 shall be followed.

Signature _____
(Program sponsor)

(2) *Medical responsibility statement.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD-2633 Medical Responsibility Statement for Use of Methadone in a Treatment Program

(To be completed by each physician licensed to dispense or administer methadone under an approved program.)

Date _____
Name of program _____
Address _____
Telephone number _____

Medical Director for this facility (licensed by law to administer or dispense drugs and responsible for all medication administered or dispensed at this facility).

Address of this facility _____
Telephone number of this facility _____

I. The undersigned agrees to assume responsibility for the administration and dispensing of methadone under the above identified program and to abide by the required standards for methadone detoxification and maintenance treatment.

II. The name of each patient treated at a facility and the frequency of visits shall be registered with the medical director. An annual report Form FD-2634 "Annual Report for Treatment Program Using Methadone" shall be submitted to the program sponsor for submission to the Food and Drug Administration. The patient shall always report to the same facility unless prior approval is obtained from the medical director for treatment at another operation.

III. The following minimal treatment standards shall be followed.

A. A statement shall be given to the addicts to inform them about the program. A voluntary request and consent Form FD-2635 "Consent to Methadone Treatment" shall be signed by each patient. Participation in the program shall be voluntary.

B. The mere use of a narcotic drug, even if periodic or intermittent, cannot be equated with narcotic addiction. Care shall be exercised in the selection of patients to prevent the possibility of admitting a person who was not first dependent upon heroin or other morphine-like drugs at least 2 years prior to admission to maintenance treatment. This drug history and evidence of current physiologic dependence on morphine-like drugs shall be documented. Evidence of physical dependence should be obtained by noting early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilation, and piloerection) during the initial period of abstinence. Withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (medical and personal history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection may require inpatient observation. It is unlikely that an individual would be currently dependent on narcotic drugs without having a positive urine test for one or more of these drugs. Additional evidence can be obtained by noting the presence of old and fresh needle marks, and by obtaining additional history from relatives and friends.

C. An exception to the requirement for evidence of current physiologic dependence on narcotic drugs or to the age limitations will be allowed under the following excep-

tional circumstances: (1) Methadone treatment may be initiated prior to or within 1 week of release from a stay of 1 month or longer in a penal or chronic care institution if an individual has a predetention history of dependence upon heroin or other morphine-like drugs at least 2 years prior to admission to the institution, or (2) pregnant patients, regardless of age or prior addiction history, but otherwise eligible for maintenance treatment, may be placed on a maintenance regimen if the Medical Director certifies the pregnancy and, in his judgment, such treatment is medically justified. Within 6 weeks after the termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment state into the patient's records indicating whether the patient should remain in a maintenance program or be detoxified. Justification for any such exception shall be noted on the patient's record.

D. Patients between 16 and 18 years of age who are enrolled and under treatment in approved programs on December 15, 1972 may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a maintenance treatment after such date unless a parent, legal guardian, or responsible adult designated by the State authority completes and signs consent form. Form FD-2635, "Consent to Methadone Treatment". Methadone treatment of new patients between ages 16 and 18 years of age will be permitted after such date only with a documented history of two or more unsuccessful attempts at detoxification and a documented history of dependence on heroin or other morphine-like drugs beginning 2 years or more prior to application for treatment. No patient under age 16 may be continued or started on methadone treatment after such date, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Patients under age 18 who are not placed in maintenance treatment may be detoxified. Detoxification may not exceed 3 weeks. A repeat episode of detoxification may not be initiated until 4 weeks after the completion of the previous detoxification.

IV. An admission evaluation and record shall be made and maintained for each patient upon admission to the program. This evaluation and record shall consist of a personal history, a medical history, and a physical examination, and any laboratory or other special examinations as indicated in the judgment of the attending physician. (It is recommended that a complete blood count, liver function tests, and a serologic test for lues be part of the admission evaluation.)

A. A personal history record will include at least age, sex, educational level, employment history, criminal history, past history of drug abuse of all types, and prior treatment for drug abuse.

B. Medical history. A thorough medical history record will be completed for each patient accepted for admission.

C. Physical examination. The findings of a comprehensive physical examination will be recorded.

V. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone treatment program to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system that exists and I state my intention to participate in any system that may be developed and approved by the Food and Drug Administration unless I notify the Food and Drug Administration, in writing, to the contrary. I understand failure to participate may cause revocation of approval of my application. Except in an emergency situation, methadone will not be provided to a patient who is known to be currently receiving the drug from another treatment program using methadone. Except as provided in item XI of this form, information that could identify the patient will be kept confidential in compliance with 42 CFR Part 2.

VI. The following minimal procedures will be used for ongoing care.

A. Dosage and administration for detoxification and maintenance treatment:

1. Methadone will be administered or dispensed in oral form only when used in a treatment program. Hospitalized patients under care for a medical or surgical condition are permitted to receive methadone in parenteral form, when in the attending physician's professional judgment it is deemed advisable. Although tablet, syrup concentrate, or other formulations are permitted to be distributed to the program, all oral medication shall be administered or dispensed in a liquid formulation. The dosage shall be formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion, and packaged for outpatient use in special packaging as required by 16 CFR 1700.14. Any take-out medication shall be labeled with the treatment center's name, address and telephone number. Exceptions may be granted when any of the provisions of this subsection are in conflict with State law with regard to the administering or dispensing of drugs.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedules indicated below are recommended but may be varied depending upon clinical judgment. Initially, a single oral dose of 15-20 milligrams of methadone will often be sufficient to suppress withdrawal symptoms. Additional methadone may be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. 40 milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone will normally be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or in 2 day intervals, but the amount of intake shall always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and will cause little discomfort. In ambulatory patients, a somewhat slower schedule may be needed. If methadone is administered for more than 3 weeks, the procedure is considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to maintenance treatment, even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of narcotic drugs but should not be so great as to cause sedation, respiratory depression, or other effects of acute intoxification. It is important that the initial dosage be adjusted on an individual basis to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later, or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage may be one-half these quantities. When there is any doubt, the smaller dose should be used initially. The patient should then be kept under observation, and, if symptoms of abstinence are distressing, additional 10 milligram doses may be repeated as needed. Subsequently, the dosage should be adjusted individually, as tolerated and required, to a level of 120 milligrams daily. For daily dosages above 100 milligrams patients shall ingest medication under observation 6 days per week. These patients will be allowed take-home medication for 1 day per week only. Those patients in treatment on December 15, 1972 who are receiving a take-home dose of more than 100 milligrams per day shall have their dosage level reduced to 100 milligrams per day or less by June 13, 1973. A daily dose of 120 milligrams or more shall be justified in the medical record. For daily dosages above 120 milligrams or, beginning June 13, 1973, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the Food and Drug Administration and the State authority. A regular review of dosage level should be made by the responsible physician with careful consideration given for reduction of dosage as indicated on an individual basis. A new dosage level is only a test level until stability is achieved.

4. Caution shall be taken in the maintenance treatment of pregnant patients. Dosage levels shall be maintained as low as possible if continued methadone treatment is deemed necessary. It is the responsibility of the program sponsor to assure that each female patient is fully informed concerning the possible risks to a pregnant woman or her unborn child from the use of methadone.

5. Methadone will be administered or dispensed by a practitioner licensed or registered under appropriate State or Federal law to order narcotic drugs for patients or by an agent of the practitioner, supervised by and pursuant to the order of the practitioner. This agent may only be a pharmacist, registered nurse, or licensed practical nurse depending upon the State regulations regarding narcotic drug dispensing and administering administration. The licensed practitioner assumes responsibility for the amounts of methadone administered or dispensed and all changes in dosage schedule shall be recorded and signed by the licensed practitioner.

6. For detoxification, the drug shall be administered daily under close observation. In maintenance treatment the patient initially will ingest the drug under the observation daily, or at least 6 days a week, for the first 3 months. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administraion. It is also recognized, however, that daily attendance at a program facility may be incompatible with gainful employment, education, and responsible homemaking. After demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in rehabilitation by participating actively in the program activities and/or by participation in educational, vocational, and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the times when they must ingest the drug under observation. They shall receive no more than a 2-day take-home supply. With continuing adherence to the program's requirements and progressive rehabilitation for at least 2 years after entrance into the program, such patients may be permitted twice weekly visits to the program for drug ingestion under observation with a 3-day take-home supply. Prior to reducing the fre-

quency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded. The requirements and schedule for when the drug must be ingested under supervision may be relaxed if the patient has a serious physical disability which would prevent frequent visits to the program facility. The Food and Drug Administration and the State authority shall be notified of such cases. Additional medication may also be provided in exceptional circumstances such as acute illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for the specific period. In such circumstances the reasons for providing additional medication will be recorded in the clinical record. In circumstances of severe illness, infirmity or physical disability, an authorized individual (e.g., a licensed practitioner) may deliver or obtain the medication.

B. In maintenance treatment, a urinalysis will be performed randomly at least weekly for morphine and monthly for methadone, barbiturates, amphetamines, and other drugs if indicated. Those patients receiving their doses of the drug from medication units will also adhere to this schedule. The urine shall be collected in a manner which minimizes falsification of the samples. The reliability of this collection procedure shall be demonstrated. Laboratories used for testing must participate in and be approved by any proficiency testing program designated by the Food and Drug Administration. Any changes made in laboratories used for urine testing shall have prior approval of the Food and Drug Administration.

C. An adequate clinical record will be maintained for each patient. The record will contain a copy of the signed consent form(s), the date of each visit, the amount of methadone administered or dispensed, the results of each urinalysis, a detailed account of any adverse reactions, which will also be reported within 2 weeks to the Food and Drug Administration on Form FD–1639, "Drug Experience Report," any significant physical or psychologic disability, the type of rehabilitative and counseling efforts employed, an account of the patient's progress, and other relevant aspects of the treatment program. For record-keeping purposes, if a patient misses appointments for 2 weeks or more without notifying the program, the episode of care is considered terminated and so noted in the clinical record. This does not mean that the patient cannot return for care. If the patient does return for care and is accepted into the program, this is considered a readmission and so noted in the clinical record. This method of recordkeeping helps assure the easy detection of sporadic attendance and decreases the possibility of administering inappropriate doses of methadone (e.g., the patient who has received no medication for several days or more and upon return receives the usual stabilization dose). An annual evaluation of the patient's progress will be recorded in the clinical record.

D. All patients in maintenance treatment will be given careful consideration for discontinuance of methadone especially after reaching a 10 to 20 milligrams dosage level. Social rehabilitation shall have been maintained for a reasonable period of time. Patients should be encouraged to pursue the goal of eventual withdrawal from methadone and becoming completely drug-free. Upon successfully reaching a drug-free state the patient should be retained in the program for as long as necessary to assure stability in the drug-free state, with the frequency of his required visits adjusted at the discretion of the director. Maintenance treatment using methadone shall be discontinued within 2 years after such treatment is begun unless, based upon clinical judgment recorded in the clinical record for the patient, the patient's status indicates that such treatment should be continued for a longer period of time. Any patient continued on methadone for longer than 2 years shall be subject to periodic reconsideration for discontinuance of such treatment.

VII. To prevent diversion into illicit channels, adequate security shall be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Drug Enforcement Administration, Department of Justice.

VIII. The program director may establish geographically dispersed medication units of reasonable size for administering and dispensing medication to patients stabilized at their optimal dosage level. The approval of such units for any geographic area shall be based upon the number and distribution of such units within the area. No more than 30 patients shall be under care at a medication unit at any one time. These units shall be responsible only for administering and dispensing medication. Private practitioners and community pharmacies may serve as medication units. Only after patients have been stabilized at their optimal initial dosage level may they be referred to a medication unit. Subsequent to such referral, the program director shall retain continuing responsibility for the patient's care and the patient shall be seen at the primary program facility at least monthly for medical evaluation and ancillary service. If a private practitioner wishes to provide other service in addition to administering and dispensing medication and collecting urine samples, the practitioner is considered a program component or a separate program, depending upon the type of services provided. In such case the restrictions on the number of patients served shall be determined by the staffing pattern and resources available.

IX. All representations in this application are currently accurate, and no changes shall be made in the program until they have been approved by the Food and Drug Administration and the State authority.

X. If the program or any individual under the program is disapproved, the program director shall recall the methadone from the disapproved sources and return the drug to the manufacturer in a manner prescribed by the Drug Enforcement Administration, Department of Justice.

XI. Inspections of this program may be undertaken by the State authority, by the Food and Drug Administration and by the Drug Enforcement Administration, Department of Justice, in accordance with Federal controlled substances laws. The identity of patients will be kept confidential except when it is necessary to make follow-up investigations on adverse effect information related to use of the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the program or any portion thereof. In all circumstances the provisions of 42 CFR Part 2 shall be followed.

Signature:_____

(3) *Annual report form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2634 Annual Report for Treatment Program Using Methadone

This form shall be completed in triplicate by the program sponsor for each calendar year.

One copy is to be sent to the Food and Drug Administration and one copy to the State authority on or before January 30.

I. Name or other identification of program

_____

_____

Address _____

_____

II. Total Treatment Capacity _____

III. Amount of methadone dispensed (in grams) during the year: _____

IV. Number of individuals who applied to the program but were not admitted or given admission evaluation _____

V. Number of individuals who were provided only detoxification one or more times _____

VI. Census of patients provided methadone maintenance treatment _____

A. Number under care at the beginning of the year being reported _____

B. Of those in treatment at the beginning of the year:

1. Number continuously under care through the year being reported (still under care) _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

C. Number admitted to care during year ____, not previously treated in this program:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged or transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

D. Number admitted to care during the year ____, previously treated in this program prior to the past year:

1. Number still under care at the end of the year _____

2. Number discharged or transferred to other types of programs and not readmitted _____

3. Number discharged and transferred to other types of programs and readmitted (still under care) _____

4. Number discharged and readmitted (no longer under care) _____

VII. Demographic and treatment characteristics of patients under care at the end of the year being reported:

A. By age and sex:

Age	Total	Male	Female
Under 14			
14–15			
16–17			
18–20			
21–25			
26–35			
36–45			
46+			

B. For the year being reported, give the number of patients who have been under continuous care for the following periods of time:

Under 3 months _____
3 months to 1 year _____
1 to 2 years _____
2 to 5 years _____
Over 5 years _____

C. Total number of individuals treated to date _____

D. For the year being reported, give the number of patients stabilized at each dosage level:

Daily dosage, mgm.	*Number of patients*
Under 20	
20–39	
40–59	
60–79	
80–99	
100–119	
Over 120	

E. For the year being reported, give the number of patients seen in the past 8 weeks who have fallen in the following categories:

No positive urinalysis for morphine for 2 months or more _____

Occasional positive urinalysis for morphine (monthly or less) _____

Frequent positive urinalysis for morphine (more than once per month) _____

In program for less than 2 months _____

For the year being reported, give the number of patients treated who were pregnant _____

VIII. Give the number of patients having significant adverse reactions, particularly reactions related to hematopoietic, cardiovascular, endocrine, neurologic, and immunological functions (attach a completed copy of Form FD–1639, "Drug Experience Report," for each incident not previously reported to the Food and Drug Administration):

Type of reaction	*Number of patients*

IX. Give the number of patients who have died while under methadone care (attach a completed copy of Form FD–1639, "Drug Experience Report", for each incident not previously reported to the Food and Drug Administration):

	Number of patients
A. Definitely methadone-related	
B. Not methadone-related	

Signature _____
(Program sponsor)

(4) *Patient consent form.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2635 Consent for Methadone Treatment

Patient _____ Date _____
Name of practitioner explaining procedures _____

(Provisions of this consent form may be modified to conform to any applicable State law.)

I hereby authorize and give my voluntary consent to Dr. _____
(Program medical director)
and/or any appropriately authorized assistants he may select, to administer or prescribe the drug methadone as an element in the treatment for my dependence on heroin or other narcotic drugs.

The procedures necessary to treat my condition have been explained to me and I understand that it will involve my taking daily dosages of methadone, or other drugs, which will help control my dependence on heroin or other narcotic drugs.

It has been explained to me that methadone is a narcotic drug which can be harmful if taken without medical supervision. I further understand that methadone is an addictive medication and may, like other drugs used in medical practice, produce adverse results. The alternative methods of treatment, the possible risks involved, and the possibilities of complications have been explained to me, but I still desire to receive methadone due to the risk of my return to the use of heroin or other drugs.

The goal of methadone treatment is total rehabilitation of the patient. Eventual withdrawal from the use of all drugs, including methadone, is an appropriate treatment goal. I realize that for some patients methadone treatment may continue for relatively long periods of time but that periodic consideration shall be given concerning my complete withdrawal from methadone use.

I understand that I may withdraw from this treatment program and discontinue the use of the drug at any time and I shall be afforded detoxification under medical supervision.

I agree that I shall inform any doctor who may treat me for any medical problem that I am enrolled in a methadone treatment program, since the use of other drugs in conjunction with methadone may cause me harm.

I also understand that during the course of treatment, certain conditions may make it necessary to use additional or different procedures than those explained to me. I understand that these alternate procedures shall be used when in the Program or Medical Director's professional judgment it is considered advisable.

(For female patients of child-bearing age)

To the best of my knowledge, I (am/am not) pregnant at this time.

Besides the possible risks involved with the long-term use of methadone, I further understand that, like heroin and other narcotic drugs, information on its effects on pregnant women and on their unborn children is at present inadequate to guarantee that it may not produce significant or serious side effects.

It has been explained to me and I understand that methadone is transmitted to the unborn child and will cause physical dependence. Thus, if I am pregnant and suddenly stop taking methadone, I or the unborn child may show signs of withdrawal which may adversely affect my pregnancy or the child. I shall use no other drugs without the medical director or his assistants' approval, since these drugs, particularly as they might interact with methadone, may harm me or my unborn child. I shall inform any other doctor who sees me during my present or any future pregnancy or who sees the child after birth, of my current or past participation in a methadone treatment program in order that he may properly care for my child and me.

It has been explained to me that after the birth of my child I should not nurse the baby because methadone is transmitted through the milk to the baby and this may cause physical dependence on methadone in the child. I understand that for a brief period following birth, the child may show temporary irritability or other ill effects due to my use of methadone. It is essential for the child's physician to know of my participation in a methadone treatment program so that he may provide appropriate medical treatment for the child.

All the above possible effects of methadone have been fully explained to me and I understand that at present, there have not been enough studies conducted on the long term use of the drug to assure complete safety to my child. With full knowledge of this, I consent to its use and promise to inform the Medical Director or one of his assistants immediately if I become pregnant in the future.

(For patients under 18 years of age)

The patient is a minor, _____ years of age, born, _____.

The risks of the use of methadone have been explained to (me/us) and (I/we) understand that methadone is a drug on which long-term studies are still being conducted and that information on its effects in adolescents is incomplete. It has been explained to (me/us) that methadone is being used in the minor's treatment only because the risk of (his/her) return to the use of heroin is sufficiently great to justify this treatment. (I/We) declare that participation in the methadone treatment program is wholly voluntary on the part of both the (parent(s)/guardian(s)) and the patient and that methadone treatment may be stopped at any time on (my/our) request or that of the patient. With full knowledge of the potential benefits and possible risks involved with the use of methadone in the treatment of an adolescent, (I/we) consent to its use upon the minor, since (I/we) realize that otherwise (he/she) shall continue to be dependent upon heroin or other narcotic drugs.

I certify that no guarantee or assurance has been made as to the results that may be obtained from methadone treatment. With full knowledge of the potential benefits and possible risks involved, I consent to methadone treatment, since I realize that I would otherwise continue to be dependent on heroin or other narcotic drugs.

Patient _____
Date _____
Date of birth _____
Parent(s) or guardian(s) _____
Relationship _____
Witness _____

(5) *Hospital application.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD–2636 Hospital Request for Methadone for Detoxification and Temporary Maintenance Treatment

Name of hospital _____
Address _____

Commissioner,
Food and Drug Administration,
Bureau of Drugs (HFD–106),
Rockville, MD 20857.

DEAR SIR: As hospital administrator, I submit this request for approval to receive supplies of methadone to be used for detoxification and maintenance treatment in accord with § 291.505 of the new drug regulations. I understand that the failure to abide by the requirements described below may result in revocation of approval to receive shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

I. The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone is _____.

II. There are a total of _____ beds in the hospital.

III. A general description of the hospital and nature of patient care undertaken is attached.

IV. The anticipated quantity of methadone needed for narcotic addict treatment per year is _____ (Gms.).

V. Methadone for narcotic addict treatment is permitted to be administered or dispensed only for detoxification or temporary treatment of hospitalized patients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to maintenance treatment. Maintenance treatment is permitted to be undertaken only by approved methadone programs. This

does not preclude the maintenance treatment of an addict who is hospitalized for treatment of medical conditions other than addiction and who requires temporary maintenance treatment during the critical period of his stay whose enrollment in a program which has approval for maintenance treatment using methadone has been verified.

VI. Accurate records shall be maintained showing dates, quantity, and batch or code marks of the drug for inpatient treatment. The records shall be retained for a period of 3 years.

VII. The Food and Drug Administration and the State authority may inspect supplies of the drug and evaluate the uses to which the drug is being put. The identity of the patient will be kept confidential (except when it is necessary to make follow-up investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records relating to approval of the hospital or any portion thereof. The confidentiality requirements of 42 CFR Part 2 shall be followed.

Signature_____
(Hospital official)

§ 310.304 [Amended]

Paragraph (b) of § 310.304 is amended by changing, the references to "§ 310.505" to read "§ 291.505".

[FR Doc.77-26754 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART IV

DEPARTMENT OF LABOR

Employment and Training Administration

■

DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM

Final Regulations

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

Final Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: These are the Department of Labor's final regulations for implementing the Disaster Unemployment Assistance Program. The regulations provide assistance to people unemployed because of a major disaster. The final regulations incorporate the substantive changes and improvements as set forth in the published proposal, except that in the final form the formula for calculating the weekly amount payable to individuals has been modified.

EFFECTIVE DATE: October 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, telephone 202-376-7032.

SUPPLEMENTARY INFORMATION: The Disaster Unemployment Assistance Program is created by section 407(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177(a)), to provide weekly payments of assistance to individuals whose unemployment is caused by a major disaster declared by the President in accordance with the Act.

Part 625, Chapter V, Title 20 of the Code of Federal Regulations, implements the Disaster Unemployment Assistance Program as most recently amended in the Disaster Relief Act of 1974. (Pub. L. 93-288, 88 Stat. 143). An interim revision of the regulations was published in the FEDERAL REGISTER on October 11, 1974, (39 FR 36579), with a comment period through November 11, 1974. The proposal to revise the regulations in final form was published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49607), and this document contains the final regulations for Part 625.

Comments on the proposal published on November 9, 1976, were solicited through December 9, 1976, and the proposal was further reviewed in the Department. As a result of comments and review, a few changes have been made in the proposal.

1. The only comment suggesting any change in Part 625 was received from the Federal Disaster Assistance Administration of the Department of Housing and Urban Development. The FDAA suggested that § 625.5(b)(4), which defines unemployment for a self-employed individual injured due to a major disaster, conform with § 625.5(a)(5), which defines the same condition as pertaining to an unemployed worker. The suggestion has been adopted, and the words "or illness" are deleted from § 625.5(b)(4).

2. Further review of the proposed Part 625 revealed that under § 625.6 there is no provision for computing the DUA weekly amount to be paid to unemployed self-employed individuals who had no net earnings due to their self-employment operating at a loss. A new paragraph, designated as paragraph (3), has been added to provide that such individuals be paid a DUA weekly amount equal to the minimum weekly benefit amount payable for regular unemployment compensation under the applicable State law. Paragraph (3) of this section has now been redesignated paragraph (4).

3. The general rule for calculating the DUA weekly amount also has been reviewed further, and the rule is modified. As set out in § 625.6(a)(1) of the proposal, the DUA weekly amount would be computed under the applicable State law in the same manner as the weekly benefit amount for regular unemployment compensation purposes. This basic formula is retained in the final regulations, but if the resulting DUA weekly amount is less than the average weekly UI payment in the State, then a weekly amount would be computed based on the individual's earnings in the 13-week period preceding the disaster, and the higher of these two amounts would be the DUA weekly amount for the individual.

4. In addition a number of minor proofing and technical errors were made in the proposed document as published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49607). Those errors have been corrected.

The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction of Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213. Telephone: 202-376-7932.

Accordingly, Part 625 of Chapter V of title 20, Code of Federal Regulations, is revised as set out below.

Signed at Washington, D.C., on September 9, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Part 625 of Chapter V of Title 20, Code of Federal Regulations, reads as follows:

Sec.

625.1 Purpose; rules of construction.
625.2 Definitions.
625.3 Employment services.
625.4 Eligibility requirements for Disaster Unemployment Assistance.
625.5 Unemployment caused by a major disaster.
625.6 Disaster Unemployment Assistance: Weekly amount.
625.7 Disaster Unemployment Assistance: Duration.
625.8 Applications for Disaster Unemployment Assistance.
625.9 Determinations of entitlement; notices to individual.
625.10 Appeal and review.
625.11 Provisions of State law applicable.
625.12 The applicable State for an individual.
625.13 Restrictions on entitlement; disqualification.
625.14 Overpayments; disqualification for fraud.
625.15 Inviolate rights to DUA.
625.16 Recordkeeping; disclosure of information.
625.17 Announcement of the beginning of a Disaster Assistance Period.
525.18 Public access to Agreements.
625.19 Information, reports and studies.
625.20 Savings clause.

AUTHORITY: Secs. 302(a) and 601 of the Disaster Relief Act of 1974, Pub. L. 93-288, 88 Stat. 143, 146, 163; EO 11795, 39 FR 25939; and the delegation of authority from the Secretary of Housing and Urban Development to the Secretary of Labor, effective August 5, 1974, 39 FR 33020. Interpret or apply sec. 407 of the Disaster Relief Act of 1974, 88 Stat. 143, 156 (42 U.S.C. 5177).

§ 625.1 Purpose; rules of construction.

(a) *Purpose.* Section 407 of the "Disaster Relief Act of 1974" created a program for the payment of unemployment assistance to unemployed individuals whose unemployment is caused by a major disaster, and to provide employment services to those individuals. The unemployment assistance provided for in section 407 of the Act is hereinafter referred to as Disaster Unemployment Assistance, or DUA. The regulations in this Part are issued to implement section 407 of the Act.

(b) *First rule of construction.* Section 407 of the Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* Section 407 of the Act and the implementing regulations in this Part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.* (1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor, on receipt of a request from the Department, a copy of any determination or redetermination ruling on an individual's entitlement to DUA.

(2) If the Department believes a determination or redetermination is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the Department's view. Thereafter, the State agency shall appeal if possible, and shall not follow such determination or redetermination as a precedent; and in any subsequent proceedings which involve such determination or redetermination, or wherein such determination or redetermination is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer

of the Department's view and shall make all reasonable efforts to obtain modification, limitation, or overruling of the determination or redetermination.

(3) A State agency may request reconsideration of a notice that a determination or redetermination is inconsistent with the Act, and shall be given an opportunity to present views and arguments if desired. If a determination or redetermination setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination or redetermination shall not be presumed from the absence of a notice issued pursuant to this paragraph.

§ 625.2 Definitions.

For the purposes of the Act and this part:

(a) "Act" means section 407 of the Disaster Relief Act of 1974, Pub. L. 93–288, 88 Stat. 143, 156, approved May 22, 1974; 42 U.S.C. 5177.

(b) "Agreement" means the Agreement entered into pursuant to the Act, between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Disaster Unemployment Assistance in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) "Announcement date" means the first day on which the State agency publicly announces the availability of Disaster Unemployment Assistance in the State, pursuant to § 625.17.

(d)(1) "Compensation" means unemployment compensation; that is, cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, extended, and emergency compensation as defined in this section, and unemployment compensation payable under the Hawaii Agricultural Unemployment Compensation Law and the Railroad Unemployment Insurance Act.

(2) "Regular compensation" means compensation payable to an individual under any State law or the unemployment compensation plan of a political subdivision of a State and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85 (Parts 609 and 614 of this chapter), but not including extended compensation or additional compensation.

(3) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors, and, when so payable, includes compensation payable pursuant to 5 U.S.C. Chapter 85.

(4) "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (title II, Pub. L. 91–373; 84 Stat. 695, 708; Part 615 of this chapter), as amended, with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. Chapter 85.

(5) "Emergency compensation" means compensation payable under the Emergency Unemployment Compensation Act of 1974 (Pub. L. 93–572; 88 Stat. 1869; Part 618 of this chapter, 41 FR 12151), as amended, and which is referred to as Federal Supplemental Benefits.

(6) "Special Unemployment Assistance" means the unemployment assistance payable under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (title II, Pub. L. 93–567; 88 Stat. 1845, 1850; Part 619 of this chapter, 41 FR 12161), as amended.

(e) "Date the major disaster began" means the date a major disaster first occurred, as specified in the understanding between the Federal Disaster Assistance Administration and the Governor of the State in which the major disaster occurred.

(f) "Disaster Assistance Period" means the period beginning with the first week following the date the major disaster began, and ending with the last week which begins prior to one year subsequent to the date the major disaster was declared, or, if earlier, the date the Federal Coordinating Officer, after consultation with the appropriate Regional Administrator, Employment and Training Administration, has determined that unemployment in the major disaster area is no longer attributable to the major disaster.

(g) "Disaster Unemployment Assistance" means the assistance payable to an individual eligible for the assistance under the Act and this part, and which is referred to as DUA.

(h) "Federal Coordinating Officer" means the official appointed pursuant to section 303 of the Disaster Relief Act of 1974, to operate in the affected major disaster area.

(i) "Governor" means the chief executive of a State.

(j) "Initial application" means the first application for DUA filed by an individual, on the basis of which the individual's eligibility for DUA is determined.

(k) "Major disaster" means a major disaster as declared by the President pursuant to section 301(b) of the Disaster Relief Act of 1974.

(l) "Major disaster area" means the area identified as eligible for Federal assistance by the Federal Disaster Assistance Administration, pursuant to a Presidential declaration of a major disaster.

(m) "Secretary" means the Secretary of Labor of the United States.

(n) "Self-employed individual" means an individual whose primary reliance for income is on the performance of services in the individual's own business, or on the individual's own farm.

(o) "Self-employment" means services performed as a self-employed individual.

(p) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(q) "State agency" means—

(1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r)(1) "State law" means, with respect to—

(i) The States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, the unemployment compensation law of the State which has been approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304; and

(ii) The Virgin Islands, the unemployment compensation law of the Virgin Islands; and

(iii) The Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

(2) "Applicable State law" means, for an individual, the State law of the applicable State for an individual as provided in § 625.12.

(s) "Unemployed worker" means an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a).

(t) "Unemployed self-employed individual" means an individual who was self-employed in or was to commence self-employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's performance of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

(u) "Wages" means remuneration for services performed for another, and, with respect to a self-employed individual, net income from services performed in self-employment.

(v) "Week" means a week as defined in the applicable State law.

(w) "Week of unemployment" means—

(1) For an unemployed worker, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no work and earns no wages, or has less than full-time work and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total

unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is week during which the individual works less than regular, full-time hours for the individual's regular employer, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law.

(2) For an unemployed self-employed individual, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no services in self-employment or in an employer-employee relationship, or performs services less than full-time and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law, or during which the only activities or services performed are for the sole purpose of enabling the individual to resume self-employment.

(3) If the week of unemployment for which an individual claims DUA is a week with respect to which the individual is reemployed in a suitable position or has commenced services in self-employment, that week shall be treated as a week of partial unemployment if the week qualifies as a week of partial unemployment as defined in this paragraph.

§ 625.3 Employment services.

Individuals applying for DUA and all other individuals who are unemployed because of a major disaster shall be afforded employment services, including counseling, referrals to suitable work opportunities, and suitable training, to assist them in obtaining reemployment in suitable positions as soon as possible.

§ 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part, if:

(a) That week begins during a Disaster Assistance Period;

(b) The applicable State for the individual has entered into an Agreement which is in effect with respect to that week;

(c) The individual is an unemployed worker or an unemployed self-employed individual;

(d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in § 625.5.

(e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;

(f) That week is a week of unemployment for the individual;

(g) The individual is able to work and available for work within the meaning of the applicable State law: *Provided*, That an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment; and

(h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment could have been undertaken in that week or in any prior week in the Disaster Assistance Period.

§ 625.5 Unemployment caused by a major disaster.

(a) *Unemployed worker.* The unemployment of an unemployed worker is caused by a major disaster if—

(1) The individual no longer has a job as a direct result of the major disaster; or

(2) The individual is unable to reach the place of employment as a direct result of the major disaster; or

(3) The individual was to commence employment and does not have a job or is unable to reach the job as a direct result of the major disaster; or

(4) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster; or

(5) The individual cannot work because of an injury caused as a direct result of the major disaster.

(b) *Unemployed self-employed individual.* The unemployment of an unemployed self-employed individual is caused by a major disaster if—

(1) The individual no longer can perform any regular services as a self-employed individual as a direct result of the major disaster; or

(2) The individual is unable to reach the place where services as a self-employed individual are performed, as a direct result of the major disaster; or

(3) The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster; or

(4) The individual cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster.

§ 625.6 Disaster Unemployment Assistance: weekly amount.

(a) *States of the United States.* (1) In all States except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the weekly amount of compensation the individual would have been paid as regular compensation, as computed under the provisions of the applicable State law for a week of total unemployment, but in no event shall such amount be in excess of the maximum amount of regular compensation authorized under the applicable State law for that week: *Provided*, That except as provided in paragraph (a)(2) and paragraph (a)(3) of this section, in computing an individual's weekly amount of DUA, the base period, qualifying employment and wage requirements, and benefit formula of the applicable State law shall be applied; and for the purpose of this section employment, wages, and self-employment which are not covered by the applicable State law shall be treated in the same manner and with the same effect as covered employment and wages, but shall not include employment or self-employment, or wages earned or paid for employment or self-employment, which is contrary to or prohibited by any Federal law.

(2) If the weekly amount computed under paragraph (a)(1) of this section is less than the average weekly payment of regular compensation in the State, and a higher weekly amount can be determined under the State formula, based on application of the individual's average weekly wage for the 13-week period immediately preceding the date of the disaster, the higher amount will be the weekly amount payable under this part.

(3) If an unemployed worker or unemployed self-employed individual has insufficient wages in the applicable State's base period to compute a weekly amount under paragraph (a)(1) of this section, the weekly wage to be used in computing the individual's weekly amount shall be determined by multiplying the hourly wage the individual earned or would have earned in weeks in the 13-week period immediately preceding the date of the disaster in employment or self-employment by the number of hours in the normal work week in such employment or self-employment.

(4) If under paragraph (a)(1) or paragraph (a)(3) of this section it is not possible to compute the weekly amount for an unemployed self-employed individual because such individual has no net earnings from services performed in self-employment, the weekly amount payable to such individual shall be the minimum weekly amount of regular compensation payable under the applicable State law.

(5) A weekly amount computed under paragraph (a)(2) or paragraph (a)(3) of this section shall not exceed 70 per-

cent of the individual's average weekly earnings as calculated under those paragraphs, and if the application of this limitation would result in a weekly amount less than the minimum weekly amount of regular compensation payable under the applicable State law the individual shall be ineligible for DUA.

(b) *Canal Zone and Guam.* In the Canal Zone and the Territory of Guam the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the average of the payments of regular compensation made by all States (except the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(c) *American Samoa and Trust Territory.* In American Samoa and the Trust Territory of the Pacific Islands the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the amount agreed upon by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the Federal Disaster Assistance Administration, which shall approximate 50 percent of the area-wide average of the weekly wages paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. The weekly amount so determined, if not an even dollar amount, shall be rounded to the next higher dollar.

(d) *Partial and part-total unemployment.* The weekly amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraph (a), (b), or (c) of this section, as the case may be, reduced (but not below zero) by the amount of wages that the individual earned in that week as determined by applying to such wages the earnings allowance for partial or part-total employment prescribed by the applicable State law.

§ 625.7 Disaster Unemployment Assistance: duration.

DUA shall be payable to an eligible unemployed worker or eligible unemployed self-employed individual for all weeks of unemployment which begin during a Disaster Assistance Period.

§ 625.8 Applications for Disaster Unemployment Assistance.

(a) *Initial application.* An initial application for DUA shall be filed by an individual with the State agency of the applicable State within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency. An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the applicant had good cause for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance Period. If the 30th day falls on a Saturday, Sunday, or a legal holiday in the major disaster area, the 30-day time limit shall be extended to the next business day.

(b) *Weekly applications.* Applications for DUA for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the manner as claims for regular compensation are filed under the applicable State law, and on forms prescribed by the Secretary which shall be furnished to the individual by the State agency.

(c) *Filing in person.* (1) Except as provided in subparagraph (2) of this paragraph, all applications for DUA, including initial applications, shall be filed in person.

(2) Whenever an individual has good cause for not filing any application for DUA in person, the application shall be filed at such time, in such place, and in such a manner as directed by the State agency and in accordance with this Part and procedures prescribed by the Secretary.

(d) *IBPP.* The "Interstate Benefit Payment Plan" shall apply, where appropriate, to an individual filing applications for DUA.

(e) *Wage combining.* The "Interstate Arrangement for Combining Employment and Wages" (Part 616 of this chapter) shall apply, where appropriate, to an individual filing applications for DUA: *Provided,* That the "Paying State" shall be the applicable State for the individual as prescribed in § 625.12.

(f) *Procedural requirements.* (1) The procedures for reporting and filing applications for DUA shall be consistent with this Part, and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (Employment Security Manual, Part V, sections 5000 et seq.) insofar as such standard is not inconsistent with this part.

(2) The provisions of the applicable State law which apply hereunder to applications for and the payment of DUA shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of regular compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part.

§ 625.9 Determinations of entitlement; notices to individual.

(a) *Determination of initial application.* (1) The State agency shall promptly, upon the filing of an initial application for DUA, determine whether the individual is eligible, and if the individual is found to be eligible, the weekly amount of DUA payable to the individual and the period during which DUA is payable.

(2) An individual's eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State agency by the individual, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency.

(b) *Determinations of weekly applications.* The State agency shall promptly, upon the filing of an application for a payment of DUA with respect to a week of unemployment, determine whether the individual is entitled to a payment of DUA with respect to that week, and, if entitled, the amount of DUA to which the individual is entitled.

(c) *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to DUA.

(d) *Notices to individual.* The State agency shall give notice in writing to the individual, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of an application for DUA with respect to a week of unemployment which denies DUA or reduces the weekly amount initiallly determined to be payable, and of any redetermination of an application for DUA with respect to a week of unemployment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determination and written notices of redeterminations with respect to claims for regular compensation.

(e) *Promptness.* Full payment of DUA, when due shall be made with the greatest promptness that is administratively feasible.

(f) *Secretary's standard.* The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent with this part and with the Secretary's "Standard for Claim Determinations—Separation Information" (Employment Security Manual, Part V, sections 6010 et seq.).

§ 625.10 Appeal and review.

(a) *States of the United States.* (1) Any determination or redetermination made pursuant to § 625.9, by a State agency other than the State agency of the Virgin Islands, the Canal Zone, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands, may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same

manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed under the applicable State law.

(2) Notice of the decision on appeal, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the appropriate Regional Administrator, Employment and Training Administration, and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Regional Administrator.

(b) *Virgin Islands.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Virgin Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region II (New York), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(c) *Canal Zone, Guam, American Samoa, and Trust Territory.* (1) In the case of an appeal by an individual from a determination or redetermination by the State agency of the Canal Zone, the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the individual shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34–609.45 of this chapter by a referee appointed by the Secretary.

(2) Notice of the referee's decision, and the reasons therefor, shall be given to the individual by delivering the notice to the individual personally or by mailing it to the individual's last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual's right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region IX (San Francisco), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(d) *Review by Regional Administrator.* (1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or a State agency shall, or upon the Regional Administrator's own motion may, review a decision on appeal issued pursuant to paragraph (a), (b), or (c) of this section.

(2) Any request for review by an applicant or a State agency shall be filed, and any review on the Regional Administrator's own motion shall be undertaken, within 15 days after notice of the decision on appeal was delivered or mailed to the individual.

(3) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration, or may be filed directly with the appropriate Regional Administrator. A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual's last known address. When a Regional Administrator undertakes a review of a decision on the Regional Administrator's own motion, notice thereof shall be served promptly on the individual and the State agency. Whenever review by a Regional Administrator is undertaken, the State's appellate authority shall promptly forward to the Regional Administrator its entire record of the case.

Where service on a party is required by this paragraph, adequate proof of service shall be furnished for the record before the Regional Administrator, and be a condition of undertaking review pursuant to this paragraph.

(4) The decision of the Regional Administrator on reivew shall be rendered promptly, and not later than 15 days after receipt of the record from the State's appellate authority.

(5) Notice of the Regional Administrator's decision shall be mailed promptly to the last known address of the individual, to the State agency of the applicable State, and to the Administrator, Unemployment Insurance Service. The decision of the Regional Administrator shall be the final decision under the Act and this Part, unless there is further review by the Assistant Secretary as provided in paragraph (e) of this section.

(e) *Further review by Assistant Secretary.* (1) The Assistant Secretary for Employment and Training on his own motion may review any decision by a Regional Administrator issued pursuant to paragraph (d) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Administrator, Unemployment Insurance Service.

(3) When the Regional Administrator and the State agency are notified of the Assistant Secretary's motion for review, they shall forward all records in the case to the Assistant Secretary.

(4) Review by the Assistant Secretary shall be solely on the records in the case, any other written contentions or evidence requested by the Assistant Secretary, and any further evidence or arguments offered by the individual, the State agency, the Regional Administrator, or the Administrator, Unemployment Insurance Service, which are mailed to the Assistant Secretary within 15 days after mailing the notice of motion for review.

(5) Upon review of a case under this paragraph, the Assistant Secretary may affirm, modify, or reverse the decision of the Regional Administrator, and may remand the case for further proceedings and decision in accordance with the Assistant Secretary's decision.

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof shall be sent to the applicant, the State agency, the Regional Administrator, and the Administrator, Unemployment Insurance Service.

(7) The decision of the Assistant Secretary shall be final and conclusive, and binding on all interested parties, and shall be a precedent applicable throughout the States.

(f) *Procedural requirements.* (1) Decisions on appeals from determinations or redeterminations by the State agencies shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in Part 650 of this chapter.

(2) The provisions on right of appeal and opportunity for hearing and review with respect to applications for DUA shall be consistent with this Part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503 (a)(1) and 503(a)(3).

(3) Any petition or other matter required to be filed within a time limit under this section shall be deemed to be filed at the time it is delivered to an appropriate office, or at the time of the postmark if it is mailed via the United States Postal Service to an appropriate office.

(4) If any limited time period specified in this section ends on a Saturday, Sunday, or a legal holiday in the major disaster area, the time limit shall be extended to the next business day.

§ 625.11 Provisions of State law applicable.

The terms and conditions of the State law of the applicable State for an individual, which apply to claims for, and the payment of, regular compensation, shall apply to applications for, and the payment of, DUA to each such individual, only as specifically set forth in the provisions of this part.

§ 625.12 The applicable State for an individual.

(a) *Applicable State.* The applicable State for an individual shall be that State in which the individual's unemployment is the result of a major disaster.

(b) *Limitation.* DUA is payable to an individual only by an applicable State as

determined pursuant to paragraph (a) of this section:

(1) Only pursuant to an Agreement entered into pursuant to the Act and this part, and with respect to weeks in which the Agreement is in effect; and

(2) Only with respect to weeks of unemployment that begin during a Disaster Assistance Period.

§ 625.13 Restrictions on entitlement; disqualification.

(a) *Income reductions.* The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to § 625.6, shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefor and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment:

(1) Compensation as defined in § 625.2 (d), except Special Unemployment Assistance;

(2) Any benefit or insurance proceed from any source for loss of wages due to illness or disability;

(3) A supplemental unemployment benefit pursuant to a collective bargaining agreement;

(4) Private income protection insurance;

(5) Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; and

(6) The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from regular compensation payable under the applicable State law.

(7) The prorated amount of primary benefits under Title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.

(b) *Disqualification.* (1) An individual shall not be entitled to DUA for any week after the week in which the individual is reemployed in a suitable position.

(2) An individual who refuses without good cause to accept a bona fide offer of reemployment in a position suitable to the individual, or to investigate or accept a referral to a position which is suitable to and available to the individual, shall not be entitled to DUA with respect to the week in which such refusal occurs or in any subsequent week in the Disaster Assistance Period. For the purposes of this paragraph, a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position, or if acceptance for the position would, as to the individual, be inconsistent with any labor standard in section 3304(a)(5) of the Federal Unemployment Tax Act, 26 U.S.C. 3304(a)(5), or the comparable provisions of the applicable State law.

§ 625.14 Overpayments; disqualification for fraud.

(a) *Finding and repayment.* If the State agency of the applicable State finds that an individual has received a payment of DUA to which the individual was not entitled under the Act and this part, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(b) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any DUA payable to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitation in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of DUA made to the individual by another State, by deductions from any DUA payable by the State agency to the individual under the Act and this part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitation in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(c) *Debts due the United States.* DUA payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person.

(d) *Recovered overpayments.* Overpayments recovered in any manner shall be credited or returned, as the case may be, to the appropriate account of the United States.

(e) *Application of State law.* Any provision of State law authorizing waiver of recovery of overpayments of compensation shall not be applicable to DUA.

(f) *Final decision.* Recovery of any overpayment of DUA shall not be enforced by the State agency until the determination establishing the overpayment has become final, or if appeal is taken from the determination, until the decision after opportunity for a fair hearing has become final.

(g) *Procedural requirements.* (1) The provisions of paragraphs (c), (d), and (f) of § 625.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 625.10 shall apply to determinations and redeterminations made pursuant to this section.

(h) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of DUA shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (Employment Security Manual, Part V, sections 7510 et seq.).

(i) *Disqualification for fraud.* Any individual who, with respect to a major disaster, makes or causes another to make a false statement or misrepresentation of a material fact, knowing it to be false, or knowingly fails or causes another to fail to disclose a material fact, in order to obtain for the individual or any other person a payment of DUA to which the individual or any other person is not entitled, shall be disqualified as follows:

(1) If the false statement, misrepresentation, or nondisclosure pertains to an initial application for DUA—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual shall be disqualified from the receipt of any DUA with respect to that major disaster; and

(2) If the false statement, misrepresentation, or nondisclosure pertains to a week for which application for a payment of DUA is made—

(i) The individual making the false statement, misrepresentation, or nondisclosure shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA; and

(ii) If the false statement, misrepresentation, or nondisclosure was made on behalf of another individual, and was known to such other individual to be a false statement, misrepresentation, or nondisclosure, such other individual

shall be disqualified from the receipt of DUA for that week and the first two compensable weeks in the Disaster Assistance Period that immediately follow that week, with respect to which the individual is otherwise entitled to a payment of DUA.

(j) *Criminal penalties.* The provisions of this section on recovery of overpayments and disqualification for fraudulently claiming or receiving any DUA to which an individual was not entitled under the Act and this part shall be in addition to and shall not preclude any applicable criminal prosecution and penalties under State or Federal law.

§ 625.15 Inviolate rights to DUA.

Except as specifically provided in this part, the right of individuals to DUA shall be protected in the same manner and to the same extent as the rights of persons to regular unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for DUA from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to DUA. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to DUA.

§ 625.16 Recordkeeping; disclosure of information.

(a) *Recordkeeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) *Disclosure of information.* Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law, and consistently with section 303(a)(1) of the Social Security Act, 42 U.S.C. 503 (a)(1). This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the United States Department of Labor, or in the case of information, reports and studies requested pursuant to § 625.19, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the United States Department of Labor promulgated thereunder.

§ 625.17 Announcement of the beginning of a Disaster Assistance Period.

Whenever a major disaster is declared in a State, the State agency shall promptly announce throughout the major disaster area by all appropriate news media that individuals who are unemployed as the result of the major disaster may be entitled to DUA; that they should file initial applications for DUA as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the Disaster Assistance Period; and where individuals may obtain further information and file applications for DUA.

§ 625.18 Public access to Agreements.

The State agency of a State will make available to any individual or organization a true copy of the Agreement with the State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§ 625.19 Information, reports and studies.

(a) *Routine responses.* State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this part.

(b) *Final Report.* In addition to such other reports as may be required by the Secretary, within 60 days after all payments of Disaster Unemployment Assistance as the result of a major disaster in the State have been made, the State agency shall submit a final report to the Secretary. A final report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the Disaster Unemployment Assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.

§ 625.20 Saving clause.

The regulations in this part do not apply to applications, determinations, hearings, or other administrative or judicial proceedings, with respect to any major disaster declared prior to October 16, 1977, and such applications, determinations, hearings, or other administrative or judicial proceedings shall remain subject to the Act and the regulations in this part issued thereunder which were in effect prior to that date.

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federal register

FRIDAY, SEPTEMBER 16, 1977
PART V

CONSUMER PRODUCT SAFETY COMMISSION

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SUBSTANTIAL PRODUCT HAZARDS

Proposed Reporting Requirements for Manufacturers, Importers, Distributors and Retailers of Products

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1115, 1116]

SUBSTANTIAL PRODUCT HAZARDS

Proposed Requirements, Policies, and Procedures

AGENCY: Consumer Product Safety Commission.

ACTION: Proposal of regulation.

SUMMARY: In this document, the Commission proposes requirements for manufacturers, importers, distributors, and retailers of consumer products regarding their obligation to report to the Commission immediately upon learning one of their products could create a substantial product hazard. The document also describes Commission procedures and policies regarding such notification. The proposed rules are intended to clarify the reporting requirement and remedial process under section 15 of the Consumer Product Safety Act.

The proposed regulation would replace existing Commission regulations regarding substantial product hazards.

DATES: It is proposed that these rules will be effective on the date of final publication in the FEDERAL REGISTER. Comments concerning the proposed rules should be received by October 31, 1977.

ADDRESSES: Written comments, preferably in five (5) copies, should be submitted to the Secretary, Consumer Products Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to the proposed rules, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Eric L. Stone, Product Defect Correction Division, Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6608).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064(b)) (CPSA) requires that every manufacturer (including importer), distributor or retailer of a consumer product who obtains information which reasonably supports the conclusion that such product either fails to comply with an applicable consumer product safety rule, or contains a defect which could create a substantial product hazard, shall immediately inform the Commission, unless such manufacturer, distributor or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply. Section 15(a) defines a substantial product hazard as a failure to comply with an applicable consumer product safety rule or a product defect which because of the pattern of defect, the severity of the risk, the number of defective products, or other reasons, presents a substantial risk of injury to the consumer. Sections 15 (c) and (d) set forth various actions that the Commission can take to eliminate a hazard, including ordering the firms in question to notify the public, and/or to repair, replace or refund the purchase price of the product. In addition, the Commission may seek to enjoin further sale or distribution of the product.

On February 19, 1974, after soliciting public comment, the Commission issued a regulation entitled "Substantial Hazard Notification" (16 CFR Part 1115; 39 FR 6061), which interpreted and clarified the reporting requirements of section 15(b) of the CPSA. The regulation became effective March 21, 1974. On July 24, 1975, the Commission published a regulation entitled "Policy and Procedures Regarding Substantial Product Hazards" (16 CFR Part 1116; 40 FR 30936) which delineated the procedures to be followed by the staff with regard to products that could create a substantial product hazard. That regulation became effective on October 25, 1975, in accordance with a notice published in the FEDERAL REGISTER on September 10, 1975 (40 FR 42003), and comments were solicited until September 22, 1975.

The Commission solicited comments from the public on both regulations, although they are interpretive rules and statements of policy and procedure which are exempt from the notice and public comment provisions of the Administrative Procedure Act (5 U.S.C. 553). The comments which were received following the proposal of Part 1115 on August 3, 1973 (38 FR 20902) were addressed when that document was issued by the Commission on February 19, 1974. The comments received on proposed Part 1116 are addressed in this document.

The Commission received several comments on Part 1116 which raised questions regarding the clarity of the reporting requirement, the efficacy and fairness of the automatic "case opening" procedure used following a firm's report of a defect, and the desirability of enforcing the reporting requirement with civil penalties or other sanctions. Based on its experience in administering section 15 of the CPSA and Parts 1115 and 1116, and on its evaluation of the comments received from the public regarding Part 1116 the Commission has decided to propose revisions of these two regulations as one regulation.

The Commission believes this proposed regulation is not substantially different from the requirements that are now in effect under section 15 of the CPSA and the Commission's regulations at 16 CFR Parts 1115 and 1116. This proposal combines many of the provisions of Parts 1115 and 1116 and it clarifies the section 15 reporting requirement, eliminates the automatic case opening procedures, and sets forth in more detail the remedies and sanctions available under the CPSA.

SUMMARY OF PROPOSALS

1. *Application of the "transferred acts".* Section 30(d) of the CPSA (15 U.S.C. 2079) provides that risks of injury associated with a consumer product that could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (15 U.S.C. 1261–1274), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471–1476), or the Flammable Fabrics Act (15 U.S.C. 1191–1204) (hereafter referred to collectively as the "transferred acts") may be regulated under the CPSA only if the Commission by rule finds it is in the public interest to do so. However, as explained in the preamble to Part 1115 (February 19, 1974, 39 FR 6061, 6062), and in the existing regulation at 16 CFR 1115.1(b) the Commission believes that risks of injury associated with consumer products regulatable under the transferred acts cannot be eliminated or reduced to a sufficient extent in a timely fashion unless the Commission is notified under section 15. Therefore, there is no need to make a public interest determination.

In proposing this regulation the Commission reaffirms the decision regarding the transferred acts and has incorporated it into proposed § 1115.2 so that it will be clear to manufacturers, distributors, and retailers of consumer products subject to regulation under any of these acts that they must immediately notify the Commission whenever they have reason to believe that their product contains a defect which could create a substantial product hazard. They do not have to report violations of regulations promulgated under the transferred acts unless, to their knowledge, the violation indicates a defect which could create a substantial product hazard.

2. *Definition of the term "defect".* The term "defect" is not defined in the CPSA. In order to give persons regulated under section 15 some guidance as to the Commission's view of what is meant by the term as used in section 15, the Commission has defined it in § 1115.3(b)(3) below. The Commission believes that a defect is any aspect of a product which creates an unnecessary risk of injury. Such aspects include: performance, composition, contents, design, construction, finish, packaging, warnings, and instructions. Thus a product is defective within section 15 if either faulty quality control or other manufacturing error results in an unnecessary risk of injury to the public.

The proposed definition of "defect" specifies that a product is defective within the meaning of section 15, even if it has been manufactured and/or labeled exactly as intended, when it presents an unnecessary risk of injury which is not justified by its utility, or recreational or aesthetic benefits. Thus, for example, a chain saw without a guard might present an unreasonable risk of injury if the state of the manufacturing art for chain saws could provide a safer saw and if the risk was, therefore, unnecessary. Similarly, a glass coffee table with razor sharp corners might pose an unnecessary risk of injury that could not be justified by the aesthetic benefits to be derived from use of the product. A carving knife, however, has a sharp

blade and could severely lacerate the consumer, but its utility justifies the risk presented by the blade.

3. *Reporting by manufacturers (including importers), distributors, retailers.* Section 15(b) of the CPSA states that every subject firm that obtains information which reasonably supports the conclusion that its product either contains a defect that could create a substantial product hazard, or fails to comply with an applicable consumer product safety rule, must immediately report to the Commission. Numerous comments were received in response to the issuance of Parts 1115 and 1116 which questioned the requirement that the reporting party must inform the Commission within 24 hours after the reporting party has obtained such information. The comments questioned this requirement since, in the opinion of the commenters, the statutory criteria for reporting set forth in section 15(b) do not offer sufficient guidance to manufacturers, distributors, and retailers as to the nature of the information which reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard. This created particular concern to some, since § 1116.6 made it clear that the staff would seek—and has in fact sought—civil penalties for reporting violations under section 15(b).

The Commission has interpreted the words "immediately inform"—the statutory language of section 15(b)—to include a reasonable time within which the subject firm may expeditiously investigate and evaluate, as well as a reasonable period of time for the information to be received by those in the subject firm having responsibility for assessment of information vis-a-vis substantial risk of injury to the public. Although reasonable time considerations have always been implicit in the Commission's interpretation of section 15, proposed §§ 1115.10 (d), 1115.11(c), and 1115.12(c) make them explicit. In addition, these proposed sections specify the time frame within which the expeditious investigations and evaluations must be undertaken and determinations made.

Guidance is provided in §§ 1115.10, 1115.11, and 1115.12 of this proposed rule so that firms can know who must report, what must be reported, and the period of time available for investigation and evaluation of information.

Proposed §§ 1115.11 (a) and (c) and 1115.12(c) together establish a presumption that reports are required within a reasonable time, but not later than eleven (11) working days, after a subject firm receives information involving the firm's product in a death or grievous bodily injury unless it has clear evidence that the injury was not caused by a defect in the product.

When a firm receives information linking its product to a death or grievous bodily injury, the firm may, but need not, investigate. If no investigation is undertaken and if the firm has no clear evidence that the injury was not caused by non-conformity or defect in the product, the firm must report to the Commission immediately (that is, within twenty-four (24) hours) pursuant to § 1115.12(c). Alternatively, the subject firm may wish to inquire into the incident further in which event § 1115.11(c) provides a reasonable time, but no more than ten working days, within which to conduct an expeditious investigation. The Commission sees the ten (10) working days as an outside limit and not as a standard or an average time. The Commission believes that most investigation can, and should, be completed in fewer than ten working days and that only in unusual cases should the entire ten days be necessary.

Section 1115.11(a) creates a presumption that a subject firm has obtained information which must be reported to the Commission unless the firm has clear evidence that the known injury was not caused by a nonconformity or defect in the firm's product. This provision does not, for example, require that a manufacturer of an electrical appliance report to the Commission based on a report of an electrocution involving that appliance if the company has clear evidence that the electrocution was caused by the appliance being improperly submerged in a bathtub. However, if the company had knowledge only that a person was electrocuted by or received a severe electric shock from one of its appliances, and it could not clearly eliminate the existence of a nonconformity or a defect as a reason for that injury, then the subject firm must report to the Commission. The requirement that the subject firm must have "clear evidence" that a nonconformity or a product defect is not the cause of a serious injury, means that the subject firm must report if it lacks convincing factual data eliminating the possibility of nonconformity or defect.

Section 1115.11(b) and (c) set out the circumstances under which, and time within which, information received should be studied and evaluated to determine whether a section 15 report must be made. These provisions are intended to provide additional guidance to manufacturers, distributors, and retailers, so that they will be prepared to evaluate a potential defect rapidly and responsibly and to make an informed and timely hazard analysis. The obligation to study and evaluate arises upon a firm's receipt of any of the items set forth in subparagraph (1) through (5) of § 1115.11(b). The obligation to inform the Commission arises when this information (allowing a reasonable length of time, not to exceed ten (10) working days, for study and evaluation) indicates a reportable defect or noncompliance, or when this information is inconclusive but the reasonable time for study and evaluation has expired.

Although the Commission has allotted ten working days for study and evaluation, the Commission believes that few cases will require use of the entire time. With both investigations into death or grievious bodily injury, and evaluation of available information, the Commission believes that time is of the essence because health and safety are involved. Consequently the timeliness of every report will be evaluated on the basis of what time was reasonably necessary on the facts of the case, although any time in excess of ten working days will be presumptively unreasonable.

Section 1115.11(d) points out that the criteria in section 15(a) of the CPSA for determining substantiality—pattern of defect, number of products distributed in commerce, severity of the risk of other factors—must all be considered in evaluating the substantiality of the hazard. Any one of these factors, standing alone, might indicate the existence of a substantial risk of injury, and, therefore, a substantial product hazard.

In §1115.10(d) information possessed by a firm's officers and employees and received in the normal course of business is imputed to the firm itself. The Commission expects that firms shall provide internal procedures for the rapid transmittal of safety information from any employee that may receive such information to the official responsible for complying with the reporting obligation of the CPSA. If the information suggests a reportable defect or is the kind that this proposed rule requires to be studied and evaluated, the subject firm must report in accordance with § 1115.11. It must be noted, however, that the five (5) day provision of § 1115.10(d) is not applicable where the official or employee originally receiving the information is the person within the subject firm to whom the information would be routed by others. In such an event, the time for investigation and evaluation set forth in § 1115.11 begins to run immediately.

4. *Remedies for substantial product hazards.* Section 1115.20 below retains the preference found in present Part 1116 for voluntary corrective action by manufacturers, distributors, and/or retailers of products that contain a defect which could create a substantial product hazard.

Several commenters on 16 CFR Parts 1115 and 1116 have asked what criteria the Commission would apply in choosing to proceed by a voluntary corrective action plan rather than seeking a binding consent agreement. Section 1115.20 sets out the criteria that will be used in determining whether a nonbinding voluntary corrective action plan is an available option. The staff will consider the promptness of the firm's report and any remedial actions taken, in addition to prior involvement of the firm in similar actions with the Commission.

While the essential elements of a voluntary corrective action plan are the same as those outlined in the existing 16 CFR 1116.2(b), proposed Part 1115 delineates in more detail the elements of such a plan. It is hoped that the criteria in the proposed § 1115.20 will help the subject firm to produce a plan that will adequately address the hazard presented.

Proposed Part 1115 sets forth other courses of action available to the Commission in matters involving substantial product hazards. Proposed § 1115.20 provides for a Consent Order Agreement to be used to remedy a defect and enumerates the requirements for such an agree-

ment. Proposed § 1115.21(a) recognizes that the Commission may issue a complaint and obtain an adjudicated Commission Order pursuant to section 15(f) of the CPSA. In addition, proposed § 1115.21(b) states that the Commission may apply to a Federal district court under section 15(g) of the CPSA, as amended, for a preliminary injunction to restrain distribution in commerce of a product which it has reason to believe presents a substantial product hazard. Proposed § 1115.21(c) also expresses the Commission's willingness to proceed to bar imported products that fail to comply with a consumer product safety rule, or present a substantial product hazard, by using its powers under section 17(b) of the CPSA, 15 U.S.C. 2066(b).

5. *Prohibited acts and sanctions.* Section 1115.22 sets forth the prohibited acts and sanctions related to section 15 of the CPSA. Persons making false or misleading reports under the CPSA are subject to criminal penalties under 18 U.S.C. 1001. In addition, a failure to make an immediate or full report under section 15(b) of the CPSA and proposed Part 1115 would be a prohibited act under section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)) and could subject a person to civil or criminal penalties under sections 20 and 21 (15 U.S.C. 2069, 2070). Failures to permit access to or copying of records or to permit entry or inspection are violations of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)) and subject the violator to possible civil and/or criminal penalties. Finally, violations of consumer product safety rules or Commission orders under section 15 of the CPSA may be punished with civil sanctions under section 20 and criminal penalties under section 21 of the CPSA.

6. *Case opening and closing procedures.* This proposed Part 1115 would eliminate the existing case opening and closing procedures. Under the existing procedures if a manufacturer, distributor, or retailer reports under section 15, the staff automatically opens a "case" (16 CFR 1116.4); if on the other hand, information comes to the attention of the staff from another source, a "case" is opened only after the staff has made a "tentative evaluation" that the information reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard (16 CFR 1116.4). Under the existing rules once a "case" has been "opened," the staff is to make a "preliminary determination" and to forward to the Commission a voluntary corrective action plan, a consent order agreement, or a complaint, or to make other appropriate recommendations within 30 days (16 CFR 1116.7). This rule has resulted in a largely manufacturer-initiated case system.

This proposed Part 1115 is expected to increase the number of reports by manufacturers, distributors and retailers dramatically, by clarifying and making more explicit a subject firm's reporting obligations. However, each report will not result automatically in an "open case." If, for example, a manufacturer reports initially that he has received a report that an electrical appliance he manufactured was involved in a death, the staff will await further information before deciding whether corrective action is required. If, for example, the manufacturer subsequently sends in a police report on the incident which indicates that the person who died committed suicide by electrocuting himself in the bathtub, then the matter will not be pursued.

The proposed rule is also expected to increase the number of staff-initiated contacts with manufacturers, distributors, and retailers, whose products may contain reportable defects under section 15. The staff will make a judgment, based on data from any source, that a particular product may present a hazard. The staff will communicate this information to the firm and ask the firm to respond. Each response will not result automatically in an "open" case. If the information relayed by the manufacturer, distributor, or retailer coupled with information the staff has obtained from other sources and evaluated in relation to other matters which demand staff attention, does not convince the staff that further investigation should take place, the matter will not be pursued.

Conclusion and Proposal

The Commission has observed the section 15 process under the existing regulations, and has considered comments received from members of the public regarding them. The Commission believes that clarification of the reporting requirement and the remedial process under section 15 will aid members of the business community in meeting their obligations, and will lead to more effective protection of the consumer.

The Commission is soliciting comments on the proposal for forty-five (45) days although the proposed rule is an interpretive rule and a statement of agency policy and procedure and is therefore exempt from the notice and public procedure provisions of the Administrative Procedure Act (5 U.S.C. 553). The Commission believes it is important to receive comment on the proposal from interested parties before issuing a final regulation under section 15.

Because this is an interpretive rule and a statement of agency policy and procedure, a delayed effective date is not required by the Administrative Procedure Act, 5 U.S.C. 553(d). Therefore, the Commission contemplates that this part will become effective upon final publication.

Accordingly, pursuant to sections 15 and 17 of the CPSA, Pub. L. 92-573, 86 Stat. 1221, 1223, 15 U.S.C. 2064, 2066, the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1115 an withdrawing the existing Parts 1115 and 1116:

PART 1115—SUBSTANTIAL PRODUCT HAZARDS

Sec.

1115.1 Purpose.
1115.2 Scope and background.
1115.3 Definitions.
1115.4–1115.9 [Reserved]
1115.10 Reporting by manufacturers (including importers), distributors, and retailers.
1115.11 Reportable information.
1115.12 Content and form of reports.
1115.13 Confidentiality and disclosure of data.
1115.14–1115.19 [Reserved]
1115.20 Voluntary remedial actions.
1115.21 Compulsory remedial actions.
1115.22 Prohibited acts and sanctions.

Authority: Secs. 15, 16, 17(a), 19, 20, 21, 22, 24, 27, 30; 86 Stat. 1221–1227, 1231, as amended, 90 Stat. 508–510 (15 U.S.C. 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2075, 2076, 2079), unless otherwise noted.

§ 1115.1 Purpose.

The purpose of this Part 1115 is to set forth the Consumer Product Safety Commission's (Commission) requirements, policies, and procedures concerning consumer products which create or could create a "substantial product hazard," as that term is defined in section 15(a) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(a)).

§ 1115.2 Scope and background.

(a) Section 15(a) of the CPSA (15 U.S.C. 2064(a)) defines "substantial product hazard" as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Section 15(b) of the CPSA (15 U.S.C. 2064(b)) requires every manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer (including an importer), distributor, or retailer has actual knowledge that the Commission has been adequately informed.

(c) Sections 15(c) and 15(d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect and/or to elect either to repair, to replace, or to refund the purchase price of such product.

(d) The provisions of this Part 1115 deal with all consumer products, includ-

ing imports, subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051–2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211–1214) (RSA). In addition, the Commission finds that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191–1204) (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261–1274) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471–1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regulation under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15 (b) (15 U.S.C. 2064(b)) and this part.

§ 1115.3 Definitions.

(a) The definitions in section 3 of the CPSA (15 U.S.C. 2052) apply to this Part 1115.

(b) The following additional definitions apply:

(1) "Adequately informed" under section 15(b) of the CPSA and this Part 1115 means that the Commission staff has received all of the information required under § 1115.12.

(2) "Commission" means the Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(3) A "defect" within the meaning of section 15 of the CPSA is any aspect of a product which creates an unnecessary risk of injury. Such aspects include, but are not limited to the following: performance, composition, contents, design, construction, finish, packaging, warnings, and instructions. A product presents an unnecessary risk if the aspect which creates the risk is not necessary for the product to perform its functional purpose. A risk is also unnecessary if the benefits (including recreational and aesthetic benefits) to be gained from use of the product do not justify the risk of injury. A product defect within the meaning of section 15 includes both unintended manufacturing errors and/or imperfections and intended product aspects.

(4) "Staff" means the staff of the Consumer Product Safety Commission unless otherwise stated.

(5) "Subject firm" means any manufacturer (including an importer) distributor, private labeler, or retailer of a consumer product required to report and/or subject to an investigation under this part.

(6) An "investigation" means an undertaking by the Commission to obtain information for the purposes of enforcing or determining compliance with section 15 of the CPSA and the rules and orders promulgated thereunder. The term investigation includes, but is not limited to, inspections, investigational hearings, and inquiries, employing subpoenas, depositions, written interrogatories, and general or special orders pursuant to sections 16 and 27 of CPSA and/or rules issued under those sections.

§ 1115.10 Reporting by manufacturers (including importers), distributors, and retailers.

(a) Except as specified in § 1115.10(e) below, every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information which reasonably supports the conclusion that such a consumer product either (1) fails to comply with an applicable consumer product safety rule (issued under the CPSA) or (2) contains a product defect which could create a substantial risk of injury to the public shall immediately notify the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (301–492–6608).

(b) The reporting obligation described in § 1115.10(a) may arise upon receipt by the subject firm of the first information regarding a potential hazard or nonconformity. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control, and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA and this section. Reportable information is further described in § 1115.11.

(c) Manufacturers (including importers), distributors, and retailers of consumer products, as that term is defined in section 3(a) of the CPSA (15 U.S.C. 2052(a)), which are subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with the reporting requirements set forth in section 15(b) of the CPSA (15 U.S.C. 2064(b)) and this part. Reports are required only for defects which could create a substantial product hazard. A failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA need not be reported unless it can also be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard.

(d) A manufacturer (including importer), distributor, or retailer shall be deemed to have received information which has been received by an official or employee of a subject firm in the normal course of business. The information shall be deemed to have been received by the manufacturer (including importer), distributor, or retailer within a reasonable time, but in no event later than five (5) working days, following receipt of the information by the official or employee. This subsection shall not apply if the person receiving the information is the official responsible for complying with the reporting obligation under the CPSA.

(e) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under this section, if he or she has actual knowledge that the Commission has been adequately informed of the defect or failure to comply.

§ 1115.11 Reportable information.

(a) *Presumptively reportable information.* A subject firm is presumed to have obtained information which reasonably supports the conclusion that a product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard when it receives information involving that product in a death or grievous bodily injury such as mutilation, amputation/dismemberment, disfigurement, unless it has clear evidence that the injury was not caused by non-conformity or defect in such product.

(b) *Information which should be studied and evaluated to determine reportability.* Where there are no reports of death or grievous bodily injury, the following are examples of the types of information which a manufacturer (including an importer), distributor, or retailer should study and evaluate in order to determine whether he or she is obligated to report under section 15(b) of the CPSA and this Part 1115. This information includes, but is not limited to, any:

(1) Report(s) of engineering, quality control or production data suggesting the existence of a non-conformity or defect which could create a substantial product hazard;

(2) Product liability suits;

(3) Report(s) from an independent testing laboratory suggesting the existence of a non-conformity or defect which could create a substantial product hazard;

(4) Complaint(s) from a consumer indicating the existence of a non-conformity or defect which could create a substantial product hazard; or

(5) Report(s) received from the Commission indicating the existence of a non-conformity or defect which could create a substantial product hazard.

(c) *Time within which investigation and evaluation should take place.* (1) A subject firm may conduct a reasonably expeditious investigation of a death or grievous bodily injury for purposes of reporting in accordance with § 1115.11(a) and should immediately undertake study and evaluation of available information for purposes of reporting in accordance with § 1115.11(b). In either event, the time allowed for investigation or evaluation shall not exceed ten (10) working days. In the event an investigation or evaluation is undertaken, at the expiration of the time permitted for investigation or evaluation, a subject firm shall be deemed to have received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(2) In lieu of conducting an investigation, a subject firm may immediately notify the Commission of the death or

grievous bodily injury pursuant to § 1115.11(a).

(d) *Defects which create substantial product hazards.* A product defect creates a substantial risk of injury to the public and, therefore, a substantial product hazard within the meaning of section 15 of CPSA (15 U.S.C. 2064) if the nature and extent of public exposure to the hazard is substantial. All the following factors shall be considered in determining the substantiality of a hazard; the presence of any one of these factors can indicate a substantial risk of injury to the public:

(1) Pattern of defect;

(2) Number of defective products distributed in commerce;

(3) Severity of the risk;

(4) Other considerations where applicable.

§ 1115.12 Content and form of reports.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Written reports.* The Chief Executive Officer of the subject firm shall sign any written reports required by this Part unless this responsibility has been delegated by filing a written delegation of authority with the Product Defect Correction Division. Delegations of authority filed with the Commission under § 1115.9 of the previous regulations under section 15 of the CPSA will remain in effect until revoked by the Chief Executive Officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company)_____

I _____ hereby certify that I am Chairman and Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing.

Authority delegated to:

_____
(Name)

_____
(Address)

_____
(Title)

Extent of authority:

_____

_____

_____

Signed:

_____
(Name)

_____
(Address)

_____
(Title)

(c) *Initial report.* Immediately, but in no event later than twenty-four (24) hours, after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the Commission must receive an initial report, containing the information listed below. This initial report may be by any means, but if it is not in writing, it shall be confirmed in writing within 48 hours of the initial report. The initial report shall contain:

(1) An identification and description of the product.

(2) The name and address of the manufacturer (or importer), or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

(3) The nature and extent of the defect or the failure to comply with an applicable consumer product safety rule.

(4) The nature and extent of the injury or risk of injury associated with the product.

(5) The name and address of the person informing the Commission.

(6) To the extent such information is then reasonably available, the data specified in § 1115.12(d) below.

(d) *Full report.* Within such time as specified by the staff, the subject firm shall make a written "full report" to the Commission. This report shall be updated by the subject firm as new information becomes available. The "full report" is not complete until all of the updated information has been received by the staff. The following information, to the extent it is reasonably available to the subject firm, shall be included in the "full report":

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product.

(4) A description of the nature of the defect or failure to comply with an applicable consumer product safety rule (if technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, copies shall be attached).

(5) The nature of the injury or the possible injury associated with the product defect or failure to comply with an applicable consumer product safety rule.

(6) The manner in which and the date when the information about a defect or noncompliance (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or events leading to the report under section 15(b) of CPSA and this Part, beginning with receipt of the first information which ultimately led to the conclusion that the product could create a substantial product hazard. Also included may be an analysis of these facts or events.

(7) The number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number and location of products and units in inventory, in distribution channels, and in the hands of consumers.

(10) An explanation of the changes (designs, adjustments, additional parts, quality control, testing, etc.) that have been or will be effected to correct the defect or failure to comply and of the steps that have been or will be taken to prevent similar occurrences in the future, together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defects with a description of how this information has been or will be communicated. This shall include copies of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions.

(13) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(14) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

§ 1115.13 Confidentiality and disclosure of data.

(a) Any person who submits information to the Commission under this Part who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)) or the CPSA (15 U.S.C. 2051 et seq.) must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within ten (10) working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed and (2) state the facts and reasons which support the claimed exemption. Information for which status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be disclosed to the public unless the Commission decides to release it pursuant to the Commission's Freedom of Information Act regulations (16 CFR Part 1015; February 22, 1977; 42 FR 10490).

(b) Section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) provides that manufacturers and private labelers of consumer products will, to the extent practicable, be given thirty (30) days notice before the Commission disseminates information about a consumer product which would enable the public readily to

ascertain the identity of the manufacturer and/or private labeler unless the Commission determines that a lesser notice period is required in the interest of public health and safety.

§§ 1115.14–1115.19 [Reserved]

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a voluntary, nonbinding document signed by a subject firm.

(1) Corrective action plans shall include, as appropriate:

(i) A statement of the nature of the hazard associated with the product, including the nature of the alleged defect, risk, and type(s) of injury or potential injury presented;

(ii) A detailed statement of the means to be employed to notify the public of the alleged product hazard (e.g., letter, press release, advertising), including an identification of the classes of persons who will receive such notice and a copy or copies of the notice or notices to be used;

(iii) A specification of model number and/or other appropriate descriptions of the product;

(iv) Any necessary instructions regarding safe use or handling of the product pending correction;

(v) An explanation of the specific cause of the alleged substantial product hazard, if known;

(vi) A stataement of the corrective action which will be or has been undertaken to eliminate the cause of the alleged substantial product hazard. Relevant drawings and test data should be submitted, and quality control procedures should be explained;

(vii) A statement of the steps that will be, or have been taken, to reasonably prevent recurrence of the alleged substantial product hazard in the future;

(viii) A statement of the action which will be undertaken to correct product units in the distribution chain, including a timetable and specific information about the number and location of such units;

(ix) The signatures of representatives of the staff and the subject firm;

(x) An agreement that the Commission may publicize the terms of the plan;

(xi) Additional points of agreement, as appropriate;

(xii) If desired by the subject firm, the following statement or its equivalent: "The signing of this agreement does not constitute an admission by (the subject firm) that a substantial product hazard exists;"

(xiii) An acknowledgement that the corrective action plan only becomes effective upon its final acceptance by the Commission.

(2) In determining whether to recommend to the Commission acceptance of a corrective action plan, the staff shall consider favorably both the promptness of the subject firm's reporting and any remedial actions taken by the subject firm in the interest of public safety. The staff also shall consider, insofar as possible, prior involvement by the subject firm in corrective action plans and Commission orders if such involvement bears on the likelihood that the firm will comply fully with the terms of a voluntary plan.

(3) Upon receipt of a corrective action plan and staff recommendation, the Commission may: (i) Approve the corrective action plan and monitor it; (ii) approve the corrective action plan without further monitoring; (iii) reject the corrective action plan and issue a complaint; and/or (iv) take any other appropriate action.

(4) Upon receipt of the plan, the Office of the Secretary shall (i) publish a summary of the plan in the Commission's Public Calendar, and (ii) include the summary in the Commission's FEDERAL REGISTER Notice Announcing the Commission Agenda. Any interested person wishing to comment on the plan must file a Notice of Intent to Comment at least forty-eight (48) hours prior to the commencement of the Commission Session during which the plan will be discussed. If no notices of intent are received, the Commission may take final action on the plan. If such notice is received within the time limits detailed above, the plan will be docketed for the following week's agenda. All comments must be in writing and final written comments must be submitted at least forty-eight (48) hours before that session.

(b) *Consent order agreements under section 15 of CPSA.* The consent order agreement (agreement) is a document executed by a subject firm (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved.

(1) Consent order agreements shall include as appropriate:

(i) An admission of all jurisdictional facts by the consenting parties;

(ii) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps, including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's Order;

(iii) A statement that the agreement is in settlement of the staff's charges;

(iv) A statement that the Commission's Order is issued under section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) and that a violation is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)) and may subject a violator to civil and/or criminal penalties under sections 20 and 21 of CPSA (15 U.S.C. 2069 and 2070);

(v) An acknowledgement that the Commission reserves its authority to seek sanctions for any violations of the reporting obligations of section 15(b) of CPSA (15 U.S.C. 2064(b)) and its authority to take other appropriate legal action;

(vi) An acknowledgement that the agreement only becomes effective upon its final acceptance by the Commission and its service upon the Consenting Party;

(vii) An acknowledgement that the Commission may disclose terms of the consent order agreement to the public;

(viii) A listing of the acts or practices from which the Consenting Party will refrain;

(ix) A statement that the Consenting Party shall perform certain acts and practices pursuant to the consent order agreement;

(x) An acknowledgement that any interested person may bring an action pursuant to section 24 of the CPSA (15 U.S.C. 2073) in any United States district court for the district in which the defendant is found or transacts business to enforce the consent order agreement and to obtain appropriate injunctive relief;

(xi) A description of the alleged defect or noncompliance with an applicable consumer product safety rule. This description may, but need not, contain an admission by the Consenting Party that a defect or noncompliance exists; and

(xii) The elements of a corrective action plan as set forth in § 1115.41(c), above.

(2) At any time in the course of an investigation, the staff may propose to the firm which is being investigated that some or all of the allegations be resolved by a consent order agreement. Additionally, such a proposal may be made to the Commission staff by a subject firm.

(3) Upon receiving an executed agreement, the Commission may: (i) Provisionally accept the agreement; (ii) reject the agreement and issue a complaint; and/or (iii) take any other appropriate action.

(4) If the agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the FEDERAL REGISTER. Any interested person may request the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Such written request must be received in the Office of the Secretary no later than the close of business of the fifteenth (15th) calendar day following the date of announcement in the FEDERAL REGISTER.

(5) If the Commission does not receive any requests not to accept the agreement within the time period specified above, it shall be deemed finally accepted by the Commission on the twentieth (20th) calendar day after the date of announcement in the FEDERAL REGISTER, unless the Commission determines otherwise. However, if the Commission does receive a request not to accept the consent order agreement, then it will consider such request, and vote on the acceptability of such plan, or the desirability for further action. After the agreement is finally accepted, the Commission may then issue its complaint and Order in such form as the circumstances may require. The Order is a final Order in disposition of

the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025; June 21, 1977; 42 FR 31431). The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final Order.

(6) If the Commission does not accept the agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission then may issue the complaint, in which case an administrative hearing will be commenced in accordance with the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, June 21, 1977; 42 FR 31431); may order further investigation; or may take such other action it considers appropriate.

§ 1115.21 Compulsory remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following:

(a) *Adjudicated Commission Order.* An adjudicated Commission Order under section 15 (c) or (d) of CPSA is issued after parties and interested persons have had an opportunity for a hearing in accordance with section 554 of title 5, United States Code and with section 15(f) of CPSA. This hearing is governed by the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025; June 21, 1977; 42 FR 31431).

(b) *Federal District Court Orders.* The Commission may apply to a Federal district court in accordance with the provisions of section 15(g) of CPSA for a preliminary injunction to restrain the distribution in commerce of a product it has reason to believe presents a substantial product hazard. The Commission may seek enforcement of its Orders issued under sections 15 (c) and (d) of CPSA in accordance with the provisions of sections 27 (b)(7) and (c) of CPSA (15 U.S.C. 2076 (b)(7) and (c)).

(c) *Orders of the Secretary of the Treasury.* The Commission staff may inform the Secretary of the Treasury that a consumer product offered for importation into the customs territory of the United States fails to comply with an applicable consumer product safety rule and/or has a product defect which constitutes a substantial product hazard. The Commission may request the Secretary of the Treasury under section 17 of CPSA (15 U.S.C. 2066) to refuse admission to any such consumer product.

§ 1115.22 Prohibited acts and sanctions.

(a) *Statements generally.* Whoever knowingly and willfully falsifies, or conceals a material fact in a report under the CPSA and rules thereunder, shall be subject to criminal penalties under 18 U.S.C. 1001.

(b) *Timeliness and adequacy of reporting.* A failure to inform the Commission immediately and adequately, as required by section 15(b) of CPSA (15 U.S.C. 2064(b)) and this Part, is a prohibited act within section 19(a)(4) of CPSA (15 U.S.C. 2068(a)(4)).

(c) *Failure to permit inspection.* The failure or refusal to permit access to or copying of records, to make reports or provide information, or to permit entry or inspection, as required under the CPSA, regulations promulgated thereunder, and/or of this part, is a prohibited act within the meaning of section 19(a)(3) of CPSA (15 U.S.C. 2068 (a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of section 19(a)(1) of CPSA (15 U.S.C. 2068(a)(1)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under Section 15(c) or (d) of CPSA (15 U.S.C. 2064(c) or (d)) is a prohibited act within the meaning of section 19(a)(5) of CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) (15 U.S.C. 2068(a)) subjects the violator to a civil penalty in accordance with section 20 of CPSA (15 U.S.C. 2069). "Knowing" means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations (Section 20(c) of the CPSA, 15 U.S.C. 2069(c)). A knowing and willful violation of section 19(a) after the violator has received notice of noncompliance subjects the violator to criminal penalties in accordance with section 21 of CPSA (15 U.S.C. 2070).

PART 1116—POLICY AND PROCEDURES REGARDING SUBSTANTIAL PRODUCT HAZARDS [REMOVED]

Interested persons are invited to submit, on or before October 31, 1977, written comments regarding this proposed Part. Comments received after this date will be considered if practicable. Comments and accompanying materials should be submitted in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments that have been received will be available for public inspection in the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

Dated: September 12, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-26987 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977

PART VI

DEPARTMENT OF LABOR

Office of the Secretary

■

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Title 29—Labor

SUBTITIE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Youth Programs Under the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rules.

SUMMARY: These rules are for the purpose of implementing the Youth Community Conservation and Improvement Projects and Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth.

DATES: Effective date: October 17, 1977. Comments must be received on or before October 17, 1977.

ADDRESSES: Send comments to: Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D St., NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street, Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: With nearly one in five teenagers unemployed, including two-fifths of nonwhite youths, it is vital to move as rapidly as possible to implement YEDPA. To achieve this end, the Department finds that it is in the public interest to publish these regulations in final form so that program implementation may rapidly respond to the critical employment needs of youth. This finding constitutes a waiver of the Department's regulation 29 CFR 2.7. Nevertheless, in keeping with the spirit of 29 CFR 2.7, comments may be submitted during the 30-day period subsequent to this publication date. Comments must be in writing and submitted to Robert Taggart, Administrator, Office of Youth Programs, 601 D Street, NW., Washington, D.C. 20213. Although Sec. 702(a) of the Comprehensive Employment and Training Act requires that these rules may not become effective until 30 days after publication, eligible applicants should plan their programs so that their programs will comply with these rules when they become effective.

The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP) designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs; regulations for these Native American and migrant programs will be published at a later date. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

Requirement Common to YCCIP and YETP

Labor union participation

Section 353(d) of CETA requires that where an appropriate local labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program, that organization shall be afforded a reasonable period of time prior to the submission of the application in which to make comments.

The regulations provide for a 15-day comment period prior to the submission of YETP and YCCIP plans to the regional administrators. During that period, appropriate local labor organizations may make written comments to the eligible applicant. The eligible applicant must consider any such comments before submitting its plan to the RA. Additionally, if there are any later modifications in the plan which involve changes in wage rates or job classifications to jobs in plans approved by the RA, then appropriate local labor organizations must be notified 15 days prior to the implementation of a minor modification, or the submission to the RA of a major modification, to the plan.

Requirements for YCCIP

Participation of neighborhood and community based organizations

Legislative history indicates the clear intent of Congress that YCCIP projects be carried out by neighborhood and community based organizations insofar as feasible. The regulations require that eligible applicants establish procedures which assure that potential project applicants, particularly neighborhood and community based organizations, are notified of the application process. Each eligible applicant is further required to establish objective project selection criteria which will be applied first to applications of neighborhood and community based organizations; only after these have been given such primary consideration may applications of other project applicants be considered. Furthermore, if eligible applicants elect to limit the types of activities for which the project applicants will compete, the regulations require that they secure the approval of the youth and planning councils in the selection of these activities.

Eligibility for participation

Section 332 of CETA requires that any unemployed youth aged 16 to 19, inclusive, is eligible for YCCIP. In section 354, CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary. Because statistics show that youth in low-income families, particularly minority youth, have the highest unemployment rates, highest school dropout rates, and the greatest difficulties in entering the labor market, the regulations require that eligible applicants give preference to economically disadvantaged youth, and that they describe in their proposed plans the procedures they will use to assure this preference is given.

Program funding estimates

Section 333 of CETA provides for allocation of YCCIP funds among the States based on the relative number of unemployed persons within each State as compared to all States. No provision is made for allocations within States. The Department has issued program funding estimates rather than allocations for each Title I eligible applicant based on the relative share of the unemployed in that eligible applicant's area compared to all unemployed within the State. If an eligible applicant declines to participate in YCCIP or submits insufficient approvable project applications,

the RA may award its funds to other eligible applicants in the State within 30 days after a notification from the RA.

SUPERVISION AT WORK SITES

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well supervised activities are essential both for enhancing work habits and the development of skills, the regulations require that there should be at least the equivalent of one full-time supervisor to every twelve youths, unless adequate justification can be provided to support another ratio. The regulations further recommend that eligible applicants consider hiring appropriate CETA Title II and Title VI participants as supervisors.

LIMITATION ON USE OF FUNDS

Because Section 335 of CETA requires that this program be labor intensive, the regulations have established percentage limitations on the use of the funds available. No more than 5 percent of the total funds available to an eligible applicant may be used for administrative supportive costs. Of the remaining funds, at least 65 percent must be spent on participant wages and fringe benefits, unless the eligible applicant can justify a lower amount, and no more than 10 percent can be used for administrative direct program costs. Project applicants and eligible applicants are further encouraged to secure worksite supervisors, materials, and supplies from other sources, wherever feasible.

ROLE OF PROGRAM AGENTS

Section 336 of CETA permits program agents under Title II of CETA to act as program agents under YCCIP. A jurisdiction eligible to be a program agentand electing to assume those functions under YCCIP will be responsible for the approval and disapproval of project applications submitted in its area and for the administration of the projects pursuant to section 204(d) of CETA; however, program agents must share with eligible applicants the funds available for administrative supportive costs.

REQUIREMENTS FOR YETP

SPECIAL CONSIDERATION FOR COMMUNITY BASED ORGANIZATIONS

Section 343(e) of CETA requires that special consideration be given to community based organizations (CBO's) of demonstrated local effectiveness in the delivery of employment and training services to youth. To assure special consideration, the regulations require that eligible applicants (1) actively involve local CBO's in the planning process and describe that role in the grant narrative; (2) indicate the ways in which those local CBO's that have demonstrated local effectiveness shall be given preference in the selection of service deliverers; (3) provide public notification of the proposed youth plan through appropriate media to all CBO's and through written notification to CBO's of demonstrated local effectiveness in serving youth; and (4) maintain documentation relating to the selection of services deliverers. The regulations also require an eligible applicant may directly perform classroom training, on-the-job training or work experience only if it has determined after consultation with CBO's that direct operation of the program by the eligible applicant will promote the purposes of YETP.

To further provide special consideration for CBO's, the regulations require that, 15 days prior to the submission of youth plans to the RA, eligible applicants must provide to CBO's of demonstrated local effectiveness the full youth plan or a summary of the youth plan which at a minimum identifies the deliverers selected, the services each is to offer and the target group(s) to be served. Eligible applicants are to respond in writing to any substantive comments from CBO's regarding the selection of service deliverers and must include those responses in the plan submitted to the RA.

ELIGIBILITY FOR PARTICIPATION

Section 345(a) of CETA emphasizes participation in YETP by individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. Although the legislation also permits in some cases the provision of services to youth from families above that income level, the legislation and legislative history clearly indicate that YETP funds should be concentrated on those having severest difficulties in obtaining employment. The regulations, therefore, limit services to youth from families with incomes above the lower living standard income level to: counseling; activities promoting transition from education to work; occupational, educational, and training information; job referral information through coordinated intake; and programs to overcome employment-related sexstereotyping. In order to further target these programs to those having greatest need, the regulations also require that eligible applicants give preference to economically disadvantaged youth and that they describe in their proposed plans, the procedures they will use to assure thta this preference is given.

Section 345(a) of CETA also allows that 10 percent of the funds available for this program may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs. Programs mixing youths in different economic backgrounds must be an identifiable program component which follows a structured experimental design in which comparison groups and followup are used to determine the benefits to the disadvantaged. A report on the results must be submitted at the end of the fiscal year.

AGREEMENTS WITH LOCAL EDUCATIONAL AGENCIES (LEA'S)

Section 343(d) of CETA requires that not less than 22 percent of the funds allocated to each eligible applicant must be used for programs for in-school youth carried out pursuant to agreements between eligible applicants and local educational agencies.

Since it is the purpose of LEA agreements to link eligible applicants and local educational agencies, only those two public entities may be signatories to the agreement. The particular form of the agreement itself has, however, been left flexible. The agreement may be financial or nonfinancial, and local educational agencies are encouraged to use other service deliverers in the area that can effectively provide the types of activities needed to serve the YETP in-school target population.

The regulations further provide for in-school career employment experience which combines ancillary transition services with any in-school work experience or on-the-job training supported under YETP.

This document has been prepared under the direction and control of Robert Taggart, Administrator, Office of Youth Programs.

Accordingly, Title 29 of the Code of Federal Regulations is amended as follows:

§ 94.3 [Amended]

1. In section 94.3, *Consolidated table of contents for Secs. 94–99:* the tables of contents for Part 97, Subparts G and H, are added to read as follows:

* * * * *

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
97.605 Award of funds.
97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
97.610 Project planning process.
97.611 Project application content.
97.612 Project application submission.
97.613 Project approval.
97.614 Project prioritization.
97.615 Submission of the proposed plan.
97.616 Application for Federal assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

Sec.
97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

Subpart H—Youth Employment and Training Programs

GENERAL

97.701 Scope and purpose.
97 702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedures.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description; program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Payments to participants.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.

GOVERNORS YOUTH PROGRAMS

97.721 Governors youth programs.

2. Part 97 is amended by adding the following new subparts.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
97.605 Award of funds.
97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
97.610 Project planning process.
97.611 Project application content.
97.612 Project application submission.
97.613 Project approval.
97.614 Project prioritization.
97.615 Submission of the proposed plan.
97.616 Application for Federal Assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

Sec.
97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

AUTHORITY: Sec. 702(a) of the Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart H—Youth Employment and Training Programs

GENERAL

Sec.
97.701 Scope and purpose.
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedure.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description of program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Payments to participants.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.

GOVERNORS YOUTH PROGRAMS

97.721 Governors youth programs.

AUTHORITY: Section 702(a) of the Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart G—Youth Community and Improvement Projects

GENERAL

§ 97.601 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Youth Community Conservation and Improvement Projects (YCCIP) under title III, Part C, Subpart 2, of the Act. The regulation at Part 98 of this title also apply to YCCIP program, exempt to the extent noted in this subpart. The provisions at Sections 97.603 through 97.631 apply to the grants to eligible applicants which are title I prime sponsors.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. In order to adequately meet community needs, the participation of neighborhood and community based organizations in the program is stressed. This program places predominant emphasis on the development and provisions of jobs. Any training must be directly related to the development of specific skills needed for the job. Participation should result wherever possible in the attainment of academic credit for competencies gained from employment. The Department expects that supervisors will play a strong role in introducing and reinforcing desirable work habits. Program operators shall target activities primarily on economically disadvantaged youth, because these individuals, particularly minorities, have the highest unemployment rates, highest dropout rates and greatest difficulties in obtaining employment. Since it is expected that most participants will be school dropouts or have high dropout potential, projects should be structured so that academic credit may be granted for work experience. Youth are to be encouraged to remain in school or to return to school if they are out of school. Any programs developed for in-school youth must be flexible enough to accommodate the scheduling needs of such youth.

(d) The Department of Labor will provide allocations of funds for States rather than to eligible applicants, but will provide eligible applicants with program funding estimates to be used by them for planning purposes. Eligible applicants are expected to submit quality project applications selected through an objective process at the local level. The Department will review these project applications, and will fund only those projects which fulfill the requirements of the program. Under certain conditions, an eligible applicant may be awarded less than its program funding estimate, with the remaining funds awarded for acceptable projects to eligible applicants elsewhere in the State.

§ 97.602 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in Section 94.4 of this title. The following definitions are specific to this subpart:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

(b) "Low-income housing" shall mean dwellings of individuals whose incomes are at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administra-

tion, "low-income housing" shall include privately owned rental housing.

(c) "Neighborhood and community based organizations" shall mean (1) neighborhood groups organized at the local level to operate employment and training programs, and which have demonstrated local effectiveness. Such organizations can be public or private nonprofit organizations or associations; and (2) community based organizations as defined in Section 97.702(c) of this Part.

(d) "Program funding estimate" shall mean the level of funds announced by the Department for an eligible applicant's planning purposes which is determined by apportioning the State allocation among eligible applicants for YCCIP, using the unemployment data available.

(e) "Project" shall mean "Community Conservation and Improvement Project" which provides constructive work conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months.

(f) "YCCIP" shall mean the Youth Community Conservation and Improvements Projects.

§ 97.603 Eligible applicants.

Any eligible applicant may apply for funds for projects in the area.

§ 97.604 Allocation of funds; program funding estimates.

(a) *Allocations.* Allocations shall be provided to the States on the basis of the formula and distribution requirements in Section 333 of the Act.

(b) *Program funding estimates.* The Secretary will provide eligible applicants with program funding estimates based on its relative share of the State's unemployed.

§ 97.605 Award of funds.

(a) The RA may award to an eligible applicant an amount of funds equal to the program funding estimate when sufficient approvable project applications are submitted by the eligible applicant.

(b) The RA may award to an eligible applicant an amount of funds greater than the program funding estimate when another eligible applicant within the same State has not submitted to the RA a Preapplication for Federal Assistance or sufficient approvable project applications within the time required.

§ 97.606 Reallocation of funds.

The RA may reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonable period of time. The procedures described in Section 98.11(d) of this title will apply to such reallocations, except that the reference in Section 98.11(d) to Section 98.11(c) does not apply.

§ 97.607 Redistribution of funds.

The RA may redistribute funds after a grant has been signed from one eligible applicant to another within the State when:

(a) The RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time. The actions described in Section 98.11 (d) of this title will apply, except that the reference to Section 98.11(c) does not apply; or

(b) The RA determines that the eligible applicant's performance is inadequate or that it has failed to comply with the Act or the regulations. The procedures set forth in Section 98.11(b) of this title will apply to such cases.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.608 Eligible applicant planning process.

Every eligible applicant which desires funds shall submit a preapplication pursuant to Section 97.609 and a plan pursuant to Sections 97.616 through 97.619. The eligible applicant shall utilize the planning process and planning council as described in Section 95.13 (b) and (c) of this title and the youth council described in Section 97.705 of this part in developing its plan.

§ 97.609 Preapplication for Federal Assistance (Standard Form 424).

(a) An eligible applicant interested in applying for funds shall submit a Standard Form 424 to the RA, governor and areawide A-95 clearinghouses by a date set by the RA.

(b) The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where the option to require additional information is exercised, an approval or disapproval decision concerning the adequacy of that information must be provided to the eligible applicant by five (5) work days after the submission date of the Standard Form 424. Further, the additional information submitted by the eligible applicant will not be required for resubmission in the formal proposed plan. The information that may be required in the preapplication includes a description of methods to be used to:

(1) Solicit applications, in particular, from neighborhood and community-based organizations, and for soliciting comments on the project applications from the planning and youth councils (Section 97.613(g));

(2) Objectively select and rank project applications (Section 97.614); and

(3) Insure involvement of appropriate labor organizations.

§ 97.610 Project planning process.

(a) In developing the program specifications, eligible applicants may consider proposals for any allowable activities under YCCIP or may elect to limit the types of activities for which project applicants will compete. In the latter case, the eligible applicant must secure the approval of the planning and youth councils in the selection of these activities. The eligible applicant may limit the types and number of project applications by:

(1) Establishing parameters regarding the size and duration of all projects;

(2) Identifying priority community needs, e.g., environmental, weatherization, and housing rehabilitation projects which projects must address;

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) A program agent under title II may elect to be a program agent under this subpart. Program agents under YCCIP shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in Section 97.631 of this subpart.

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in Section 94.4(ppp) of this title), particularly neighborhood and community-based organizations, are notified of the project application process and the cut-off date for acceptance of project applications.

§ 97.611 Project application content.

All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency as defined in Section 97.702, etc.) and, if applicable, the program agent to which it was submitted;

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent, and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment;

(2) List of target groups to be served; and

(3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for

each. If job restructuring is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* Totals for the following line items:

(1) Direct program costs as defined in 98.12(f)(6)(iii) of this title;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe benefits of work-site supervisors;

(4) Costs of job-related training;

(5) Costs of materials, supplies and equipment used by participants on the job; and

(6) Costs of supportive services for participants.

§ 97.612 Project application submission.

The project applicant shall submit applications to the program agent for its area, or to the eligible applicant if there is no program agent for its area.

§ 97.613 Project approval.

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and any program agents for evaluating and approving project applications.

(b) Each project, in order to be approved, must:

(1) Provide tangible outputs and measurable benefits which will accrue to the community;

(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;

(3) Be labor intensive;

(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and

(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience.

(c) Project applicants must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that

(1) It will not result in the displacement of currently employed workers;

(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;

(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) it will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;

(5) it will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) it will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and

(7) where job restructuring will occur or where new job classifications will be developed, these will not be done in order to negate established personnel procedures, or to displace currently employed workers.

(d) The project approval process shall assure that project applications from neighborhood and community based organizations of demonstrated local effectiveness in providing employment and training services to youth will be considered before applications from other project applicants are considered. Where it can be documented that the neighborhood or community based organization does not have the administrative capability to run the project, or its project application does not meet the criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered, provided the same criteria are used.

(e) Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the eligible applicant, indicating their approval or disapproval.

(f) The eligible applicant shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the eligible applicant shall give due consideration to project applications approved by the program agent.

(g) After review, the eligible applicant shall submit all project applications to the youth and planning councils for comment and recommendations.

(h) After review of any comments and/or recommendations of the planning and youth councils, the eligible applicant shall approve or disapprove the project applications. The eligible applicant, however, shall not disapprove a project application recommended for approval by the planning council unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (Section 336(c)(2)).

(i) In cases of disapproval, the eligible applicant shall inform the project applicant in writing of its disapproval. It must also indicate the reasons for the disapproval.

§ 97.614 Project prioritization.

(a) Each eligible applicant shall rank, in terms of their relative priority, approved project applications.

(1) It shall first rank those projects having highest priority whose total proposed cost does not exceed the amount available for projects (see Section 97.631).

(2) It shall then rank those approved project applications whose additional total cost (including no more than five (5) percent for supportive costs) does not exceed 25 percent of the program funding estimate.

(b) Eligible applicants shall document the rationale used for ranking the approved project applications.

§ 97.615 Submission of the proposed plan.

(a) Each eligible applicant must submit a proposed plan to the RA by a date established by the RA. The proposed plan shall consist of prioritized project applications as well as the items described in Sections 97.616 through 97.619. The eligible applicant shall also submit any project applications approved by any program agents, but disapproved by the eligible applicant, together with a description of the due consideration which was accorded to them.

(b) A proposed plan may be submitted for a planned dollar level not to exceed 125 percent of the program funding estimate.

§ 97.616 Application for Federal Assistance.

(a) Standard Form 424, Application for Federal Assistance, shall be submitted.

(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 15 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.

(2) Except for the requirement contained in paragraph (b)(1) of this section, for the purpose of implementing the program for FY 1978, the comment and publication procedures provided in Section 95.15 of this title shall be followed except that copies of the proposed plan or summaries of the plan may be submitted to Governors, appropriate units of government, appropriate Native American CETA sponsors, and appropriate State and sub-State clearinghouse(s) at the same time they are submitted to the appropriate labor organizations for comment; and in any case should not be submitted later than the date of submission to the RA.

(3) Project applicants and other interested parties must be notified through appropriate media that they may review the proposed plan at a predesignated location.

§ 97.617 Narrative description.

The narrative description shall contain the eligible applicant's overall strategy and design and shall describe the procedures to be used to implement and administer the program including:

(a) Methods used to solicit project applications, in particular those from neighborhood and community based organizations;

(b) Methods used to approve and prioritize project applications;

(c) The criteria used for approving and prioritizing project applications;

(d) The participation of appropriate labor organizations;

(e) Recruiting methods to be used if different from those described in the PSA. This description should include coordination with other programs under the Act;

(f) The target groups to be served and procedures used to assure that economically disadvantaged youths receive preference;

(g) Plans for assessing the results of the projects to both the participants and the community; and

(h) A description of the administrative structure including subgrant and contract administration, which will be used if different from that described in the PSA.

§ 97.618 Budget information summary and program planning summary.

A budget information summary and program planning summary shall be completed by the eligible applicant and submitted as part of the plan. Eligible applicants shall use the classifications of costs by category which will be provided with the grant package instructions.

§ 97.619 Special assurances and certifications.

(a) The proposed plan shall contain the following special assurances:

(1) Compliance with Prime Sponsor Agreement (PSA), including the assurances and certifications in the PSA; and

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 and the regulations of 29 CFR 97.601–97.631.

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age.

§ 97.620 Plan review and approval.

(a) The RA shall first review the project applications to determine if they meet the requirements of the Act, the regulations of this subpart and other applicable law.

(b) (1) Using the factors and assurances set forth in section 97.613 (b) and (c), the RA shall consider ranked projects and may approve projects up to 100 percent of the amount of the eligible applicant's program funding estimate which is available for projects.

(2) The RA shall disapprove any project application which does not at a minimum meet the factors and assurances of section 97.613 (b) and (c) and other requirements of the Act, the regulations and other applicable law. RA's will review individual applications for outstanding disagreements between appropriate labor organizations, employers, and eligible applicants with respect to jobs that have been restructured. RA's will provide in writing to the eligible applicant an explanation for any prioritized project applications that are rejected.

(c) If there are not sufficient approvable prioritized project applications in the plan to equal the amount of the eligible applicant's program funding estimate which is available for projects, the RA shall allow the eligible applicant 30 days in which to modify the prioritized project applications which were submitted to the RA. If the eligible applicant fails to submit revised project applications or submits revised project applications which are not approvable, the RA may award the unused funds to another eligible applicant within the State.

(d) The approval of the proposed plan will be in accordance with sec. 95.18 of this title.

(e) The RA shall determine whether or not the eligible applicant gave due consideration to project applications approved by any program agent, but disapproved by the eligible applicant.

§ 97.621 Modifications.

(a) Any modification to the plan will be in accordance with the provisions of section 95.21 of this title, except that in 95.21(a) the term "project(s)" shall be read for the term "program activities," and references to public service employment shall be disregarded.

(b) In addition, when a new job classification or wage rate is proposed, there shall be a modification to the plan and the eligible applicant must notify the appropriate labor organizations 15 calendar days prior to implementation of a minor modification or the submission of a major modification which would allow funding jobs in the new job classification or paying that new wage rate.

ADMINISTRATIVE PROVISIONS

§ 97.622 Administrative provisions.

(a) Eligible applicants shall comply with the administrative provisions of Part 98 of this title in operating programs pursuant to this subpart, except as stated in sec. 97.618 of this subpart.

(b) Eligible applicants or program agents shall enter into financial agreements with project applicants except as provided in paragraph (d) of this section. With respect to such agreements, program agents are governed by the fund restrictions set forth in Section 97.631 of this subpart.

(c) Eligible applicants must share supportive costs with the program agent(s), with the program agent receiving an amount proportionate to its share of program funds.

(d) The eligible applicant or program agent may enter into a non-financial agreement with a project applicant if there is a written agreement between the project applicant and the eligible applicant that clearly identifies the administrative and programmatic benefits of such a non-financial agreement.

PROGRAM OPERATIONS

§ 97.623 Eligibility for participation.

(a) In order to participate, an individual must:

(1) Be 16 through 19 years of age, inclusive, at the time of enrollment; and

(2) Be unemployed.

(3) If at the time of enrollment into any other program under the Act, a 16 through 19 year old youth was unemployed, that individual may be transferred into this program.

(b) Eligible applicants shall give preference to the economically disadvantaged, as defined in Section 94.4 of this title.

(c) Appropriate efforts shall be made to serve those youths who have severe difficulties in obtaining employment, as described in Section 354(a) of the Act.

(d) The citizenship and veterans provisions of Sections 95.32(d) and (e)(1) of this title shall apply to YCCIP programs.

§ 97.624 Acceptable project activities.

(a) Each project shall insure that each participant does constructive work in terms of individual and community benefits during participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low income housing as defined in Section 97.602; energy conservation including solar energy projects; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a structured combination work and education program.

§ 97.625 Participant benefits.

(a) Participants shall be paid wages as described in 97.718(c) of this Part.

(b) Each participant shall be provided the benefits and working conditions as provided in Section 98.24 of this title.

§ 97.626 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain from their employment.

§ 97.627 Substitution for Title I programs.

Programs funded under YCCIP shall be supplementary to, and shall not replace programs and activities for youth available under Title I of the Act (See sections 95.13(b)(3) and 95.14(b)(3)(ii)(G) of this title).

§ 97.628 Supervisory personnel.

(a) Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of one full-time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the eligible applicant's plan. Supervisors must have the skill needed to carry out the project and must be able to instruct participants in those skills.

(b) The hiring of supervisory personnel for projects shall not impede the promotional rights of existing employees.

§ 97.629 Materials, equipment and supplies.

Eligible applicants are encouraged to make use of resources from CSA and FEA to provide or supplement administration, materials, equipment, supplies, etc. With respect to the use of YCCIP funds for the acquisition, lease or rental of supplies, equipment, and materials the provisions set forth in Section 98.12(c) of this title do not apply. Eligible applicants should be aware that Federal statutes which provide funds for materials, supplies, etc., often have Davis-Bacon related provisions which may affect wage rate levels in projects involving construction.

§ 97.630 Earnings disregard.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

§ 97.631 Limitation on use of funds.

(a) No more than 5 percent of the funds awarded to an eligible applicant may be used by the eligible applicant and program agent(s) for supportive costs as defined in 98.12(f)(6)(ii) of this title. The remaining funds must be made available for projects.

(b) Of the project funds:

(1) At least 65 percent of the funds must be used for participant wages and fringe benefits, unless adequate justification is provided in the eligible applicant's plan.

(2) No more than 10 percent may be used for direct program costs defined in 98.12(f)(6)(iii), including the salaries and fringe benefits of project directors.

(3) Any remaining project funds may be used for training of participants, on-site and supportive services.

Subpart H—Youth Employment and Training Programs

General

§ 97.701 Scope and purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) which are authorized by Title III, Part C, Subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the act. The regulations at part 98 of this title also apply to YETP programs except as indicated in this subpart. The regulations at sections 703 through 721 of this subpart apply only to eligible applicants which are Title I prime sponsors. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR, parts 94 through 99, the regulations contained in this subpart shall prevail (sec. 357).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons to enable them to secure unsubsidized employment in the public and private sectors of the economy. It is not the purpose of this program to provide make-work activities but rather to provide youth, especially economically disadvantaged youth with opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 341).

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: activities funded under the other parts of CETA; employment and educational services provided by local educational agencies; services offered by State Employment Security Agencies; programs funded through other sources such as community based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

(d) Information gained from the operation of YETP will be considered by the Department in developing future legislative and program designs.

§ 97.702 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in section 94.4 of this title. Special definitions applicable to terms found in this subpart are as follows:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETA participants.

(b) "Career employment experience" shall mean a program activity for in-school youth which is a combination of employment (either work experience or on-the-job training) supported under YETP and certain transition services, which at a minimum, shall consist of career information, skills training, counseling, guidance, and a high degree of supervision.

(c) "Community based organization (CBO)" shall mean an organization which is representative of a community or of particular segments of a community and which provides employment and training services. CBO's include such organizations as Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

(d) "Eligible applicant" shall mean a YETP program sponsor. Title I prime sponsors, as defined in section 94.4 of this title, may be eligible applicants under YETP.

(e) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(f) "In-school youth" shall mean:

(1) A youth who:

(i) Is currently enrolled in and attending a secondary, trade, or technical school, or

(ii) Was enrolled in, and attended, the last regularly scheduled quarter or semester of such school, and is scheduled to attend the next regularly scheduled quarter or semester; or

(2) A youth who has:

(i) A high school diploma or its equivalent and who attended the last regularly scheduled quarter or semester of a community college or vocational school, and

(ii) Not completed all coursework required for successful completion at the school; or

(3) A youth who has not completed high school and who agrees to enroll in a school program leading to a secondary school diploma or its equivalent (sec. 702(a)).

(g)(1) "Job restructuring" shall mean the procedure which includes:

(i) Identifying the separate tasks that comprise a job or group of jobs;

(ii) Developing new position descriptions which retain some of the taks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills, knowledges, abilities, and experience needed to perform the work (sec. 342(a)(3)(L)).

(h) "Local educational agency (LEA)" shall mean a public board of education or other public authority legally constituted within a State for either administrative control over, direction of, or service to public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools (sec. 702(a)).

(i) "Of this title" shall mean "of title 29 of the Code of Federal Regulations."

(j) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in section 97.717(a)(1) of this subpart.

(k) "YETP" shall mean the Youth Employment and Training Programs.

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall publish formula allocations to eligible applicants in the FEDERAL REGISTER.

(b) *Formula allocated funds (sec. 343).* (1) The Secretary shall allocate 75 percent of the funds available to YETP to eligible applicants.

(2) Of the funds available to YETP, the Secretary shall allocate an amount equal to 5 percent of the funds available under Title III, Part C of the Act, to Governors for programs as specified in section 97.721 of this subpart.

(3) The Secretary shall allocate funds to eligible applicants and Governors using the formula set out in section 343 (b) of the Act.

(c) *Additional allocations.* The Secretary shall allocate funds to Indian, Native American, and migrant and seasonal farmworker eligible applicants as provided in section 343 of the Act.

(d) *Secretary's discretionary funds.* The Secretary shall use all remaining funds for programs designed to identify and test approaches for dealing with the unemployment problems of youth (secs. 343, 348).

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under YETP will apply only after a grant is signed.

(b) The RA may reallocate funds awarded to an eligible applicant if he determines that the eligible applicant will not be able to use all of the allocated amount within a period of time which the RA deems appropriate (sec. 354(b)).

(c) The procedures described in section 98.11(d) of this title shall apply to reallocations except that the reference in section 98.11(d) to 98.11(c) does not apply.

(d) The RA may also reallocate funds based on nonperformance. The procedures set forth in section 98.11(b) of this title shall apply to such reallocations.

(e) If all proposed LEA agreements under a grant are not signed by the eligible applicant and the LEA(s) within 60 days after the initial submission of the YETP plan to the RA for review and approval, the RA may reallocate that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agreement. The procedures set forth in 98.11(d) apply to such reallocations.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.705 Eligible applicant planning process.

(a) *Youth plan.* Every eligible applicant which desires funds shall submit a youth plan containing the items listed in secs. 97.706 through 97.710 of this subpart. In developing its youth plan, the eligible applicant shall:

(1) Take into account the eligible applicant's Title I and summer program plans;

(2) Utilize the planning process and planning council, as described in sec. 95.13 (b) and (c) of this title; and the youth council described in paragraph (b) of this section;

(3) Afford an opportunity to community based organizations of demonstrated local effectiveness in providing employment and training activities for youth to participate in the development of the youth plan as required by paragraph (c) of this section.

(4) Afford an opportunity to appropriate labor organizations to participate in the development of the youth plan as required by paragraph (d) of this section.

(b) *Youth council.* Each eligible applicant shall establish a youth council, (sec. 346).

(1) In consultation with the planning council, the eligible applicant shall make appointments to a youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the State employment security agency, local government and non-government agencies which are involved in serving youth, the local community, and the eligible applicant. In addition, youth council members shall include youths who are participants in, or eligible for, YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or eligible applicants may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall perform the tasks described in sec. 95.13(b)(2) of this title, and provide recommendations to the planning council.

(4) The youth council shall at a minimum make recommendations to the planning council with respect to the planning and review of all program activities under Title III, Part C, of the Act, and shall review the proposed agreements with local educational agencies under YETP.

(5) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has direct bearing on services to be provided by that member (or any organization with which that member is associated).

(c) *Community-based organizations (CBO's).* (1) Each eligible applicant shall involve CBO's in the planning process as follows:

(i) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth shall actively participate in the planning process.

(ii) Public notification of the proposed youth plan will be provided to CBO's through appropriate media.

(2) Special consideration shall be given to CBO's of local demonstrated effectiveness in the delivery of employment and training services to youth. Special consideration shall consist of the following:

(i) Fifteen (15) days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum:

(A) Information on the emphases of the program, and

(B) Proposed service deliverers and the services to be provided by each; and

(ii) Written response will be made to any substantive comments for such CBO's regarding selection of service deliverers and these comments and responses will be included when the youth plan is transmitted to the RA;

(3) Each eligible applicant shall maintain documentation relating to selection of service deliverers for a minimum of one year.

(4) An eligible applicant may directly perform classroom training, on-the-job training or work experience as described in § 95.33(c) (1), (2), or (4) of this title, only if, after consultation with CBO's, the eligible applicant determines that direct operation of the program will promote the purposes of this subpart (sec. 342(b)). The eligible applicant shall document the administrative and programmatic benefits of such direct operation.

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be sent to the appropriate labor organizations at least 15 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

§ 97.706 Content and description of the grant application.

In order to receive funds, each eligible applicant shall submit a youth plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant. Additions to, or variations from the PSA, if any, shall be included in the youth plan. The youth plan shall also include the documents described in secs. 97.707 through 97.710 of this subpart.

§ 97.707 Approval Request Letter.

Each eligible applicant shall submit an Approval Request Letter to the RA, by a date set by the RA.

§ 97.708 Application for Federal Assistance (Standard Form 424).

The Application for Federal Assistance shall identify the amount of funds requested and provide information on the number of people expected to be served.

§ 97.709 Narrative description; program and planning forms; additional documentation.

(a) The narrative shall contain descriptions of:

(1) Objectives of the program;
(2) Local priorities;
(3) Implementation planning;
(4) Program activities and services;
(5) Management and administration;
(6) Results and benefits expected from the program;
(7) Program planning summary; and
(8) Budget information summary.

(b) The youth plan shall also include documentation which shows that:

(1) The planned expenditures for program activities will further the purpose of the program by:

(i) developing long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) enhancing job prospects and career opportunities for youth; and

(iii) enabling participants to secure appropriate unsubsidized employment (sec. 341);

(2) The identified performance goals in the youth plan are reasonable and can be achieved;

(3) A youth council has been established and that the youth council has participated in the planning and review process for the youth plan;

(4) CBO's have participated in the planning and CBO's of demonstrated local effectiveness have been given special consideration as set forth in section 97.705(c) of this subpart;

(5) Appropriate labor organizations have participated in the development of the youth plan as required by section 97.705(d) of this subpart;

(6) There is a description of the procedures to be used to notify the appropriate labor organizations of any changes to job classifications or wage rates;

(7) The eligible applicant has a proposed in-school program to be operated pursuant to section 97.717 of this title;

(8) With respect to youth plans from Governors, there is adequate justification for each proposed activity as defined in section 97.721; and

(9) The eligible applicant has coordinated with local SESA offices to the maximum extent feasible.

§ 97.710 Special assurances and certifications.

(a) The youth plan shall contain the following special assurances:

(1) Compliance with the Prime Sponsor Agreement;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15.

§ 97.711 Youth plan, review and approval.

(a) *Comment and publication procedures.* The procedures of section 95.15 of this title shall apply to YETP, except that for the purpose of implementating the program in FY 1978, copies of the YETP youth application will be submitted to Governors, and a summary to appropriate units of government, appropriate Native American CETA sponsors, and appropriate State or sub-State clearinghouse(s) at the same time it is submitted to the appropriate labor organizations for comment; or it may be submitted simultaneously with submission to the RA.

(b) *Standards for reviewing the youth plan.* The provisions of section 95.17 (a), (b) (1), (2), (3), (4), (6), (8), (9), (10), and (11) shall be followed by the RA in reviewing the youth plan. The RA shall also determine whether the youth plan meets the requirements of this subpart and that its documentation is adequate and sufficient.

(c) *Awarding the grant.* The procedures specified in sections 95.18, 95.19, and 95.20 of this title shall apply to the awarding of grants under YETP.

§ 97.712 Modifying the grant.

The procedures specified in § 95.21 of this title shall apply to the modifying of grants under YETP. Any change in job classifications or wage rates shall require a modification. Appropriate labor organizations shall be notified in writing of all such wage rate and job classification changes under the grant at least 15 days before the implementation of a minor modification, or submission to the RA of a major modification, which would allow the filling of jobs in the new classifications or the paying of the new wage rates.

Administrative Provisions

§ 97.713 Administrative provisions.

The administrative provisions of Part 98 (Grant Administration) of this title shall be applicable to the operation of programs under this subpart, except as otherwise indicated in this subpart.

Program Operations

§ 97.714 Eligibility for participation.

(a) An eligible applicant shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment, except as provided in section 97.715 of this subpart (sec. 345):

(1) Unemployed or underemployed as defined in section 94.4(fff) of this title, or in-school as defined in section 97.702 of this subpart; and

(2) 16 through 21 years of age; and

(3) A member of a family with a total family income at or below 85 percent of the lower living standard income level, as defined in section 94.4(nnn) of this title.

(b) For the purpose of participating in in-school career employment experience, the youth needs such participation in order to continue his or her education (sec. 346(c)).

(c) If, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) The citizenship and veterans provisions of sections 95.32 (d) and (e)(1) of this title also apply to YETP.

(e) Programs funded under this subpart shall give preference to economically disadvantaged youth. Appropriate efforts shall be made to give service to the youth categories cited in section 354(a) of the Act.

§ 97.715 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under section 97.714 of this subpart, who are in school, and who are 14 or 15 years old may participate in programs under YTEP when the youth plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 345(a)(1)(B)).

(b) Youths need not meet the income criteria described in section 97.714(a)(3), if they participate in a special component, as described in section 97.716(e) of this subpart (sec. 345(a)(2)).

(c) Youths, who do not meet the income criteria defined in section 97.714(a)(3), and who are not in a special component described in section 97.716(e), may be offered services but these services are limited to:

(1) Counseling, including occupational information;

(2) Activities promoting transition from education to work;

(3) Occupational, education, and training information;

(4) Placement services;

(5) Job referral information through coordinated intake systems; and/or

(6) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling and guidance.

§ 97.716 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under Title I of the Act, except public service employment.

(b) Each participant in on-the-job training, work experience, or career employment experience shall be assured of the general benefits and working conditions for program participants provided in section 98.24 of this title.

(c) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence he or she dropped out of high school in order to participate (section 353(f)(2)). A written job description shall be developed and maintained for all work experience and OJT positions funded under this subpart to provide a basis

for determining its comparability to existing jobs of other individuals similarly employed

(d) The child labor standards specified in 29 CFR Part 570.31 et seq. or appropriate State standards, whichever are stricter, shall apply to the employment of 14 or 15 year olds under YETP. The Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR Part 570.50 et seq. shall apply to the employment of 16 and 17 year olds under YETP.

(e) An eligible applicant may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in section 97.714(a)(3) in order to test the desirability of serving such a mix of youth. This special component shall:

(1) Have and follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide for an end of the year report on the experimental outcomes.

§ 97.717 In-school programs.

(a) *Activities and services.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (section 342):

(1) *Transition services*—(i) These transition services shall be designed to prepare and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional and on-the-job training, including development of basic skills and job skills;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youths, in order to improve work relationships between employers and youths;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) Assistance in overcoming sex-stereotyping in job development, placement, and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, adequate supervision, skills training, counseling, and guidance. Any work experience or on-the-job training must include these minimum ancillary transition services. Where work experience or on-the-job training is supported under the 22 percent or more of funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services.

(b) *Agreements with local educational agencies.* (1) Eligible applicants shall use at least 22 percent of their total funds to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343(d)(1)) pursuant to written agreements between them and local educational agencies (LEA's). The programs shall be operated in accordance with the provisions of section 343(d)(2) and section 346(c) of the Act.

(2) Agreements may be between the eligible applicant and one or more local educational agencies or a combination of LEA's represented by one LEA, (section 702(a)).

(3) Each agreement may be either a financial or nonfinancial agreement and, whichever is determined most appropriate by the eligible applicant and the LEA(s), shall:

(i) Provide a description of the activities and services to be provided to eligible participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(iii) Contain provisions to assure that services and/or funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

(4) Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(i) Assurances that participating youths will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment;

(ii) Assurances that such agreements have been reviewed by the youth council;

(iii) Assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(iv) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

(v) Assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources available in the local community to assist such youths in obtaining employment;

(vi) An assurance that career employment experience opportunities provided will be certified by a school based counselor as being relevant to the career and educational program for the youth(s) being provided those opportunities.

(5) In order to carry out the purposes of the LEA agreement, LEA's are encouraged to enter into subagreements, grants, or contracts with post-secondary schools, with State accredited nonprofit educational institutions, State accredited profit institutions, SESA's, and CBO's which have demonstrated effectiveness locally in serving youth, particularly those who are economically disadvantaged.

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies by no later than 60 days after initial submission of the YETP plan to the regional office for review and approval. If an agreement is not reached within 60 days, the RA shall initiate the reallocation process as required by section 97.704 of this subpart.

§ 97.718 Payments to participants.

(a) Participants in training activities shall be paid allowances. Participants in employment shall be paid wages. Participants in activities which are a combination of employment and training shall be paid in accordance with section 95.33(d)(7) of this title.

(b) *Allowances.* Participants will be paid allowances in accordance with the criteria and process in section 94.34 of this title.

(c) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act. Fourteen and 15 year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standards Act; or

(2) The applicable State or local minimum wage, including exceptions for the wage rates of 14 and 15 year olds;

(3) For a job which is substantially the same as existing jobs of the same employer, the prevailing wage for the employer's existing, substantially similar jobs, except that the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the eligible applicant and the appropriate labor organization agree in writing to a lesser wage; or

(ii) There is job restructuring. In order to accomplish job restructuring, the eligible applicant, employer, and appropriate labor organization, shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the labor organization, employer, or eligible applicant disagree over the wages to be paid for the restructured job and an agreement is not reached, the eligible applicant, employer, and appropriate labor organization should resolve such dispute at the local level within 30 days. If, after these 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within 30 days, the RA shall set the wage rate; or

(iii) The employer creates new job classifications or occupations. If disputes arise regarding whether the jobs are new to the employer, the eligible applicant, appropriate labor organization, and employer should attempt to resolve the issue within 30 days after the appropriate labor organization is informed of the "new" jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the job is new to the employer; or

(4) In the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply, the prevailing wage determined by the Secretary under the Davis-Bacon Act (see 29 CFR Parts 1, 3, 5, and 7). However, in the case of such projects, financed under YETP and YCCIP under $5,000, the employer, eligible applicant, and appropriate labor organization may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs.

(d) Allowances and wages received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally-assisted programs (Section 356).

(e) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most jobs will be at entry level. Eligible applicants, therefore, are expected to pay the minimum wage whenever feasible.

§ 97.719 Maintenance of effort. (sec. 353(b))

(a) Youth plans shall reflect the purpose of this program to provide additional resources, activities, and services over an dabove the current level to result in an impact on the employment problems of youth.

(b) The provisions of § 97.334 of this part prescribing substitution of Federal over and above the current level to refunds for activities previously funded through other resources apply to all activities funded under this program (sec. 353 (b),(c), and (d)).

(c) The following provisions also apply to activities funded under this program:

(i) They will not result in the displacement of currently employed workers;

(ii) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(iii) They will not employ any youth when any other person is on layoff by the empoyer from the same or any substantially equivalent job in the same area;

(iv) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(v) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(vi) They will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with;

(vii) Where job restructuring will occur or where new classifications will be developed, they will not be done in order to negate established personnel procedures or to displace currently employed workers.

§ 97.720 Substitution for title I programs.

Programs funded under YETP shall be supplementary to but no treplace programs and activities for youth available under title I of the Act (secs. 95.13(b)(3) and 95.14(b)(3)(ii)(G)).

§ 97.721 Governors youth programs.

(a) Activities and services. The Governor shall use the funds allocated pursuant to section 97.703(b)(2) of this subpart to provide one or more of the following statewide youth services (sec. 343(c)).

(1) To give special emphasis to funding expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in conjunction with business, labor unions, and State apprenticeship councils;

(2) To provide funds to carry out special model employment and training programs and related services between appropriate State agencies and an eligible applicant or eligible applicants, including contractors selected by eligible applicants, with particular emphasis on experimental job training in the private sector;

(3) To provide labor market and occupational information to eligible applicants and local educational agencies without reimbursement;

(4) To foster cooperative efforts between State and local institutions which provide occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth;

(5) To fund employment and training programs as defined in section 97.716 of this subpart for eligible youth who are under the supervision of the State.

(b) *Governor's youth plan.* The Governor's youth plan shall include the following information:

(1) A Request for Approval Letter;

(2) Application for Federal Assistance (Standard Form 424);

(3) The narrative, which shall include the following:

(i) A discussion of any support to be given for expanded and experimental programs in apprenticeable trades;

(ii) A description of efforts to provide employment and training opportunities for youth under the supervision of the State;

(iii) A description of the efforts the State will undertake in the development, analysis and dissemination, of appropriate labor market information as it relates to youth;

(iv) A description of efforts to coordinate existing State services or institutions and those of the eligible applicant(s);

(v) A description of any experimental, model or demonstration programs to be operated by the State; and, any plans to assist eligible applicants in the development or operation of such programs;

(vi) A description of expected results and benefits to be derived from specific program activities under the grant; and

(4) Youth planning summary and youth budget information summary:

(i) The youth planning summary requires a quantitative statement of planned enrollment levels, the participants to be served by each program activity, and planned outcomes for program participants. It shall also include an identification of the target groups within the youth population and the number of individuals in each to be served.

(ii) The youth budget information summary shall include a quantitative statement of yearly planned expenditures by cost category, planned quarterly obligations, and planned quarterly expenditures by program activity.

(5) *Special assurances and certifications.* The Governor's youth plan shall assure:

(i) Compliance with the Governor's Agreement;

(ii) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(iii) Compliance with the provisions of section 343(c) of the Act.

(iv) Compliance with the Hazardous Occupations Orders issued pursuant to 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15.

(c) *Procedures for comment, modification and approval of Governor's youth plan:* (1) In developing the Governor's youth plan, the Governor shall establish a youth council as described in § 97.705 (b) which shall report to the State Manpower Services Council (SMSC) described in § 95.13(d) of this title and shall use the SMSC as described in § 95.13 (d) and (e) of this title.

(2) In submitting the Governor's youth plan, the procedures specified in § 95.52 (a) and (b) of this title shall be followed except that:

(i) The preapplication procedures in § 95.52(b)(1) and the preapplication provisions in § 95.11 and 95.15(d), which are referenced in § 95.52, do not apply; and

(ii) For the purpose of implementing the program for Fiscal Year 1978, copies of the Governor's youth plan may be submitted to organizations as required in § 95.52(b) 15 calendar days preceding submission to the RA, during which period any comments received shall be considered.

(3) Approval procedures to be followed for the Governor's youth plan are as specified in § 95.53 of this title, except that the provision of § 95.17(b)(7), referenced in § 95.53, do not apply.

(4) The modification procedures specified in section § 95.54 of this title shall be used to modify Governor's grants under YETP.

Signed this 14th day of September 1977, in Washington, D.C.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-27207 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART VII

POSTAL SERVICE

■

POSTAL SERVICE MANUAL

Miscellaneous Amendments

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICES

Postal Service Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes and publishes the full text of numerous miscellaneous revisions of the Postal Service Manual. Some of the revisions are minor, editorial, and technical; others are substantive. As to substantive changes, the Postal Service previously published in the FEDERAL REGISTER the complete text of those changes in the course of informal rulemaking proceedings. Publication of all the changes at this time is in accordance with the incorporation by reference in the FEDERAL REGISTER of all amendments to chapter I of the Postal Service Manual.

EFFECTIVE DATE: July 13, 1977, except that the revisions of appeal procedures and the deletion of Postal Service regulations on action organizations covered by 2.2c and 2.3f of the Transmittal Letter were published in the FEDERAL REGISTER on June 22, 1977 (42 FR 31592); except that the revised definition of advertising and the marking of paid reading matter described in 2.2e and 2.3j of the Transmittal Letter were published in the FEDERAL REGISTER on May 27, 1977 (42 FR 27246); except that the new rates described in 2.3g of the Transmittal Letter became effective July 6, 1977 and were published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31506); except that the contractor use of agency official mail described in 2.3t of the Transmittal Letter was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24266); and except that the changes to the loose and undeliverable mail regulations described in 2.4d and 2.5 e-g were published in the FEDERAL REGISTER on March 23, 1977 (42 FR 15681), and except for any changes announced in Postal publications prior to July 13, 1977, concerning which actual notice was received.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 42, Issue 117, dated July 13, 1977.

Consistent with 39 CFR 111.3, Transmittal Letter 42, Issue 117, is hereby published in the FEDERAL REGISTER in full text, and notice of this publication is added as an amendment to § 111.3. In addition, the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the Manual will receive these amendments automatically from the Government Printing Office. (For other availability of Chapter I of the Postal Service Manual, see 39 CFR 111.2.)

In consideration of the foregoing 39 CFR 111.3 is amended as follows:

§ 111.3 Amendments to Chapter I of the Postal Service Manual.

* * * * *

Transmittal letter	Issue	Date	FEDERAL REGISTER publication
42	117	July 13, 1977	42 FR

ROGER P. CRAIG,
Deputy General Counsel.

(5 USC 552(a), 39 USC 401.)

Accordingly, Transmittal Letter 42, Issue 117, is hereby published, and reads as follows:

POSTAL SERVICE MANUAL

Post Office Services (Domestic) Transmittal Letter 42

1 FILING INSTRUCTIONS

Remove pages headed:	Insert pages headed:
113.262—114.2 (2 sheets)	113.262—114.2 (2 sheets)
121.341—121.341 (Illustration 4)(2 sheets)	121.333 (1 sheet)
122.14—122.23 (2 sheets)	122.14—122.23 (2 sheets)
122.52 (1 sheet)	122.52 (1 sheet)
123.2—123.422 (2 sheets)	123.2—123.422 (2 sheets)
123.69—124.294 (5 sheets)	123.69—124.296 (5 sheets)
125.53 (1 sheet)	125.53 (1 sheet)
125.743 (1 sheet)	125.8 (1 sheet)
126.152—131.215 (8 sheets)	126.153—131.221 (8 sheets)
131.233—131.342 (2 sheets)	131.233—131.422 (2 sheets)
131.61b—132.222 (5 sheets)	131.61b—137.17(4 sheets)
132.31—132.461b (3 sheets)	132.31a—132.467 (4 sheets)
132.622—134.333 (4 sheets)	132.623—134.331 (4 sheets)
134.53—135.152 (5 sheets)	134.55—135.155 (5 sheets)
139.259 (1 sheet)	135.259 (1 sheet)
136.11—141.114 (16 sheets)	135.83—141.114 (14 sheets)
142.11 (1 sheet)	142.11 (1 sheet)
143.431—144.933 (13 sheets)	143.431—144.933 (11 sheets)
145.51—146.141 (4 sheets)	145.51—146.23 (5 sheets)
147.252 (1 sheet)	147.252 (1 sheet)
152.2 (1 sheet)	152.2 (1 sheet)
154.63—155.5 (3 sheets)	154.82—156.122 (3 sheets)
156.8—158.7 (5 sheets)	156.59—158.7 (5 sheets)
159.271 (1 sheet)	159.25 (1 sheet)
159.41—159.73 (5 sheets)	159.412—159.73 (5 sheets)
159.811 (1 sheet)	159.811 (1 sheet)
161.152—161.513 (4 sheets)	161.152—161.514 (4 sheets)
161.528-161.535b (2 sheets)	161.528 (1 sheet)
161.82—161.921 (3 sheets)	161.831—161.864 (2 sheets)
162.32 (1 sheet)	162.32 (1 sheet)
163.411 (1 sheet)	163.411 (1 sheet)
164.122—164.162 (3 sheets)	164.133—164.162 (2 sheets)
165.22 (1 sheet)	165.21 (1 sheet)
166.21—168.1 (3 sheets)	166.22—168.1 (3 sheets)
168.72—169.133 (2 sheets)	168.72—169.133 (2 sheets)
169.553 (1 sheet)	169.554 (1 sheet)
171.132 (1 sheet)	171.132 (1 sheet)
171.212—171.214 (2 sheets)	171.212—171.214 (2 sheets)
171.336 (1 sheet)	171.336—~~173.852 (2 sheets)~~ (1 sheet)

2 EXPLANATION OF CHANGES

.1 Subchapter 110

Section 114.2 amended to reflect the realignment of Inspection Service Divisions.

.2 Subchapter 120

a. Sections 122.514c, 162.22, 165.16, 165.134, 166.22, 167.1, 167.2 and 167.4 revised to clarify procedures for official mail.
b. Section 123.422 amended to conform with Public Law 94-525, October 17, 1976.
c. Parts 123, 132, 134 and 135 amended to clarify appeal procedures on rulings on mailability and qualifications for second-class, controlled circulation, third-class and fourth-class mail.
d. Section 125.26 amended to require that the publication number be included as a part of the notice of entry shown on sealed or unsealed envelopes used as wrappers and sealed wrappers or other sealed covers.
e. Section 125.52 amended to simply and more precisely define the term "advertising."
f. Part 126 has been revised to update the list of MPO's and mailing restrictions. Section 126.162 deleted; Sections 126.163 and 126.164 renumbered 126.162 and 126.153; Section 126.162b (previously 126.163b) amended to clarify requirements for importation of firearms by military personnel from overseas military post offices.

.3 Subchapter 130

a. Sections 131.11, 135.131, 135.259, 136.11, 136.63, 141.124, 169.122 and 169.541 amended to correct printing errors in Post Office Services (Domestic) Transmittal Letter 41, Issue 115, dated December 31, 1976.
b. Section 131.121 has been revised to delete the requirement that mailing pieces mailed at the presort first-class rate be addressed to different addresses.
c. Section 131.122, 131.53 b and 131.61 revised to provide for mailing of presorted first-class metered mail of nonidentical weight.
d. Section 131.211 amended to specify that first-class mail receives expeditious handling and transportation.
e. Section 131.234 added to provide for weighing of bulk quantities of identical business reply mail pieces for piece count computation. Former section 131.234 has been changed to 131.235.
f. Part 132 amended to permit applications for the additional second-class privileges to be submitted simultaneously with applications for second-class mail privileges. Section 132.211 amended to clarify mailability of second-class publications.
g. Section 132.11, 132.12, 133.1, 134.12, 135.131 and 135.14 updated to reflect the postage rates applicable effective July 6, 1977.
h. Section 132.211 amended to clarify mailability of second-class publications.
i. Sections 132.25 and 133.3 amended to require the publication number be shown as part of the second-class or controlled circulation imprints and to change the location of identification numbers in copies.
j. Section 132.73 amended to limit the required marking to one page of a piece of reading matter, regardless of the total number of pages.
k. Sections 134.124 and 145.565 are amended to clarify the verifying procedures for permit imprint and bulk third-class mailings.
l. Sections 134.222 a and b and 145.51c corrected to read that all pieces in a bulk mailing must be identical as to size and weight. The requirement that all pieces be identical as to number of enclosures has been eliminated.
m. Sections 135.111 b and 135.153 have been deleted.

n. Section 135.152 has been amended to change the manner in which applicable zone charges are determined for certain zone-rated mail originating and/or destinating at overseas military post offices.
o. Sections 135.154, 135.155 and 135.156 renumbered 135.153, 135.154 and 135.155 respectively.
p. Title of Part 136 changed to Priority Mail. Priority mail is defined and the minimum weight for priority mail changed to 13 ounces. References to airmail and label 19 deleted.
q. Section 136.234 amended to refer to 135.152.
r. Section 137.16 added to provide instructions on submission of mailing records for franked mailings.
s. Section 137.22c added to include official mail privileges used by cooperative extension employees of the U.S. Department of Agriculture.
t. Sections 137.23 through 137.3 revised to consolidate, clarify, and eliminate redundancy in the regulations concerning agency use of official mail. Section 137.25 establishes a licensing procedure for the use of official envelopes and labels by Government contractors. Section 137.273f added to cover business reply permits for Federal Government agencies and departments.
u. Section 139.23 amended to provide for the mailing of attachments at the bulk third-class rates.
v. Sections 139.312 and 145.71 revised to provide for the payment of postage on enclosures through the use of permit imprints.

.4 Subchapter 140

a. Section 144.13 amended to update the names and addresses of authorized postage meter licenses.
b. Section 144.37 revised to clarify filing procedures for postage meter licenses.
c. Section 144.46 and 144.92f amended to permit customer's meter stamps to contain a ZIP Code.
d. References in last lines of sections 146.121 and 146.124c changed to 159.412m.

.5 Subchapter 150

a. Section 151.13 has been added to provide for customer obligation in keeping a clear approach to his mailbox to facilitate mail delivery.
b. Section 155.6 revised to clarify regulations and requirements for delivery to apartment houses, family hotels and flats.
c. Section 158.111 amended to make clear that a change of address may not be filed with the Postal Service for mail bearing an employee's name addressed to the place of employment.
d. Section 158.7 amended to correct an omission in the chart summarizing procedures for handling undeliverable mail and to delete references to airmail which was eliminated on March 6, 1977.
e. Sections 159.411, 159.441 — 159.445, 159.72, 159.724 and 159.813 changed and section 159.412o added to reflect implementation of new policies in handling loose and undeliverable mails.
f. Sections 159.722c(6) and 159.742 are amended to correct typographical errors.
g. New section 159.772b(8) is transferred from old section 159.442 for continuity.

.6 Subchapter 160

a. Sections 161.21 and 161.22 amended to clarify registered mail liability and charges for material covered by commercial insurance.
b. Section 161.31 amended to specify that padded envelopes are not acceptable in the registered mail service.
c. New sections 161.33 and 161.34 require mailers to tell the accepting employee when registered mail contains fragile items and provides for denying indemnity when registered mail is not adequately packed.
d. Section 161.47 amended to specify that the postmaster may require customers to call for registered mail at the post office.
e. Reference to revenue units in 161.513a is deleted.
f. Section 162.122 is changed to provide insurance service for matter mailed at the first-class rate or priority rate.
g. Section 162.22 revised to except official mail from prepayment requirement.
h. Section 165.134 revised to provide certificates of mailing for certain official mail matter.
i. Section 165.16 added to clarify payment procedures for official mail.
j. Section 166.22 revised to clarify payment procedures for official mail.
k. Section 167.1, 167.2 and 167.4 revised to clarify payment procedures for official mail.
l. Section 168.2 and 168.41 revised to clarify payment procedures for official mail.

.7 Subchapter 170

a. Section 171.122 amended to correct a typographical error.
b. Section 171.336 revised to clarify procedures for cashing money orders when there is more than one payee.

R. J. Skelly

Director
Office of Management Services

.263 Standard Levels of Service—Holidays Not Widely Observed

(All Monday Holidays: Columbus Day, Veterans' Day, Memorial Day, Washington's Birthday)

	Window	Lockbox	Firm Call	Delivery			Collection
				Business	Residential	Special delivery	
Saturday	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred[1]
Monday	Limited	Sunday schedule	Limited	None	None	Holiday schedule	Starred[1]

Exceptions for service reasons must be approved by the Regional Postmaster General.

[1] Whenever a holiday is observed on Monday and there are no residential collections scheduled on Sunday, a full residential collection must be scheduled on the Monday holiday.

Definitions of terms:

Normal—Service normally provided on the particular day of the week.

Residential Collection—Neighborhood boxes collected by carrier serving in those areas on normal delivery days as scheduled except as provided in footnote 1.

Starred—Collections from boxes designated as collection points with either one or two stars identifying the box.

Limited—Service adjusted to meet the limited needs of the community on the particular day.

.262 Standard Levels of Service—Holidays Widely Observed

(Christmas Day, Independence Day, Labor Day, New Years Day, Thanksgiving Day)

	Window	Lockbox	Firm call	Delivery			Collection
				Business	Residential	Special delivery	
Friday holiday							
Friday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred
Saturday	Limited	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred
Saturday holiday							
Friday	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Saturday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred
Sunday	None	Normal	None	None	None	Normal	Starred
Sunday or Monday holiday							
Saturday	Limited	Normal	Normal	Normal	Normal	Normal	Normal
Sunday	None	Normal	None	None	None	Normal	Starred[1]
Monday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred[1]
Tuesday, Wednesday, or Thursday holiday							
Preceding Day	Normal	Normal	Normal	Normal	Normal	Normal	Normal
Holiday	None	Holiday schedule.	None	None	None	Holiday schedule	Starred

[1] Whenever a holiday is observed on Monday and there are no residential collections scheduled on Sunday, a full residential collection must be scheduled on the Monday holiday.

113.3 GENERAL DELIVERY

.31 USE

General delivery is primarily for use at offices without carrier delivery to serve transients and for other customers who prefer not to use lockbox service. Mail endorsed, *Transient, To Be Called For, General Delivery,* or with other suitable words, will be placed in the general delivery case to be delivered to the addressee on his application and proper identification.

.32 WHERE CARRIER DELIVERIES ARE PROVIDED

General delivery service is provided at offices with carrier delivery service, for transients and customers who are not permanently located. Persons intending to remain for 30 days or more in a city having carrier service should file their names and street addresses at the post office so that their mail may be delivered by carrier unless lockbox service is desired. Persons living in cities having carrier delivery service may for good and sufficient reasons satisfactory to the postmaster receive their mail at general delivery windows.

Part 114
COMPLAINTS

114.1 POSTAL SERVICE

Complaints by individual customers about any aspect of products, services, or information may be made at any post office or regional office. Although the foregoing is recommended as an initial step, any customer may choose to direct a complaint to the Consumer Advocate, U.S. Postal Service, Washington, DC 20260. When the complaint concerns apparent mishandling of mail, furnish the related envelope or wrapper.

114.2 POSTAL LAW VIOLATIONS

Send information and complaints of postal law violations to the nearest Postal Inspector in Charge at the address listed below:

Atlanta, GA 30302	P.O. Box 4327
Boston, MA 02107	P.O. Box 2217
Chattanooga, TN 37401	P.O. Box 711
Chicago, IL 60607	Main Post Office Bldg., Room 642
Cincinnati, OH 45201	P.O. Box 2057
Detroit, MI 48232	P.O. Box 119
Fort Worth, TX 76101	P.O. Box 1230
Los Angeles, CA 90030	P.O. Box 30456
Memphis, TN 38103	P.O. Box 3180
Newark, NJ 07101	Post Office and Courthouse Bldg.
New York, NY 10001	8th Ave. and 33rd Street
Philadelphia, PA 19101	P.O. Box 7500
Pittsburgh, PA 15219	1500 Chamber of Commerce Bldg.
San Francisco, CA 94101	P.O. Box 367
Seattle, WA 98111	P.O. Box 400
St. Louis, MO 63199	200 S. Hanley Rd., 10th Floor
St. Paul, MN 55165	Main Post Office Bldg., Room 309
Washington, DC 20013	P.O. Box 1820

Part 115
MAIL TREATED IN CONFIDENCE

First-class mail is given absolute secrecy while in our custody. No persons in the Postal Service, except employees of dead-mail offices, may open first-class mail without a legal warrant, even though it may contain criminal or otherwise unmailable matter or may furnish evidence of the commission of a crime.

.333 When several items are within a package they must be protected from each other as well as from external forces. Concentrated heavy items must not be packaged with fragile items unless extreme care is exercised to separate the items from each other. Heavy items must be adequately blocked and braced.

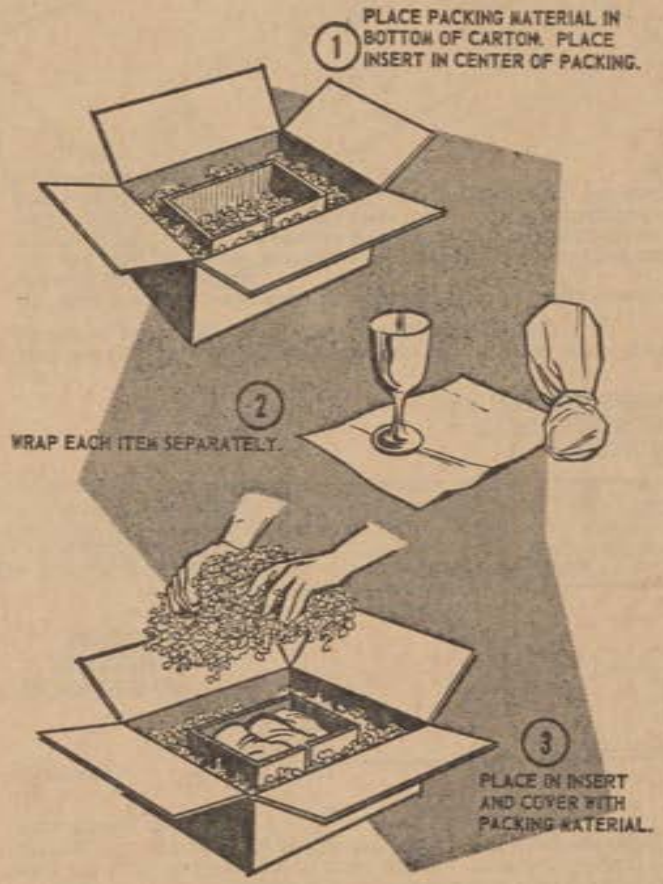
ILLUSTRATION 4

.34 CLOSURE AND REINFORCEMENT

.341 General

Closure and reinforcement of packages are primary considerations in the preparation and acceptability of any parcel. The principal methods of closure and reinforcement employ gummed and pressure sensitive tapes, adhesives, strapping, twine and cord; staples for boxes and bags; and various friction closures, screw caps and locking devices for cans and similar containers.

ILLUSTRATION 5



.54 AEROSOLS

Aerosol containers with inadequate friction cap closures, or other nonpositive means to prevent accidental discharge of contents, are a source of loss of contents and contamination to other mail. These cans must be so constructed as to preclude accidental discharge of contents in the mail. This may be accomplished through the use of recessed valves, screw thread caps, tape closures or other means of preventing discharge (see 124.25).

.55 HIGH DENSITY LOADS

High density loads such as gears, machine parts and tools are hazardous to other mail and Postal handling equipment. Articles of this type which weigh in excess of 15 pounds shall be packaged so as not to exert more than 60 pounds per square foot pressure.

121.6 PACKAGING IMPROVEMENT REPORT

When packaging deficiencies are noted after acceptance that are not of such a serious nature as to require refusal for dispatch or removal from the mails, the receiving Postal employee will complete a *Packaging Improvement Notice*, Form 3823, noting the potential source of loss or damage in accordance with 331.22. When damage occurs as a result of inadequate packaging, Form 3823 will be prepared in accordance with 334.723.

Part 122

ADDRESSES

122.1 GENERAL INFORMATION

.11 Write the name and the address clearly and legibly on one side only. See 124.293a(13) for exception on baby poultry.

.12 Mail must include in the address the name and the street and number; or post office box number, or general delivery; or rural or star route designation and box number (except simplified address mail as prescribed in 122.4). Mail for customers on a rural route may be addressed to street names and numbers if this type of address has been approved.

.13 All mail should bear the name and address of the actual sender to enable the Postal Service to return it (if returnable) when it is undeliverable for the reasons in 159.111. Mail bearing the same return and delivery address, or window mail with no address and a preprinted return address (obviously that of the intended addressee), without any postage is considered to bear no return address and will be sent to dead mail offices as prescribed in 159.412m. For instructions concerning mail which must bear a return address, see:

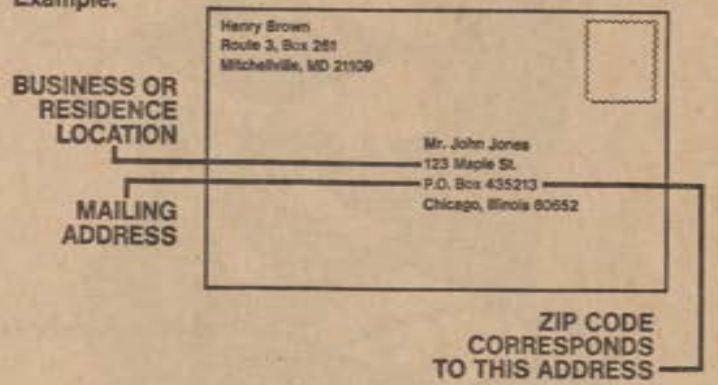
a. Second-class mail in envelopes or wrappers—125.26.
b. Fourth-class mail—135.511.
c. Priority mail—Part 136
d. Mail of any class, when its return is desired—122.3.
e. Registered mail—161.31.
f. Insured mail—162.12.
g. COD mail—163.13.
h. Matter bearing company permit imprints—145.33.

.14 Include the ZIP Code in all addresses and return addresses. See 122.6.

.15 Attach a slip to articles enclosed in parcels showing the name and address of the sender and addressee.

.16 Mail should be specifically addressed to the place where the post office is to deliver it. Mail bearing both a street address and post office box number will be distributed for delivery in accordance with the address shown on the line immediately preceding the city and State of destination, unless the addressee has issued contrary instructions. The ZIP Code shall correspond with the unit (box location or street address) to which delivery is to be effected. The requirements of this paragraph are also applicable to return addresses on mail matter.

Example:



Mail bearing the names of more than one post office in either the return address or recipient's address is not acceptable for mailing.

.17 Matter bearing instructions to return to *Point of Mailing* (postmark) is not acceptable for mailing.

.18 See 122.7 for special instructions on addressing second-class mail.

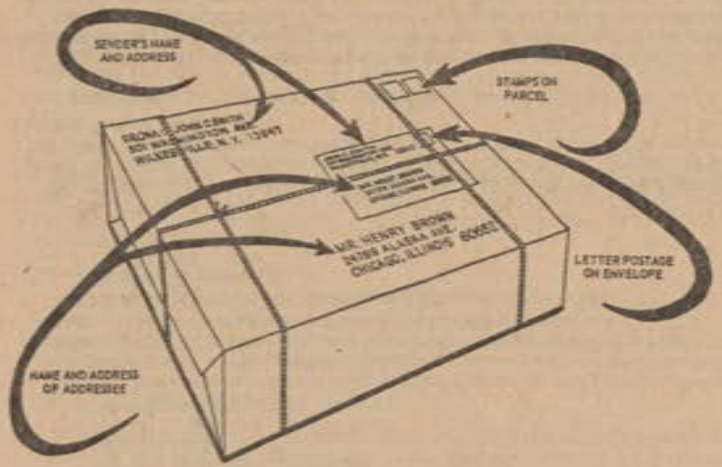
.19 See 122.8 for special instructions on addressing overseas military mail; see Part 127 for addressing mail via State Department to U.S. foreign service personnel abroad; and Publication 42, *International Mail*, for addressing international mail.

122.2 ARRANGEMENT OF ADDRESS

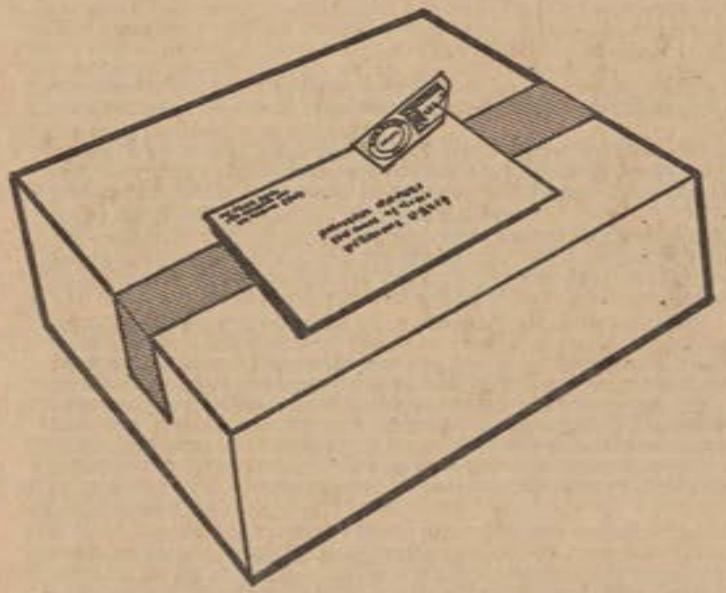
.21 The proper place for the address is in the lower right portion of the address area; postage (stamps, meter stamps or permit imprints) in the upper right corner; and return address of sender in the upper left corner.

.22 Leave at least 3½ inches of clear space, from top to bottom, at the right end of the address side of envelopes, folders, or labels. This space will be used for address, postage, postmark, and other prescribed endorsements such as *special delivery*. On large envelopes or mailing pieces, leave on the right end of the address side a clear rectangular space of not less than 3 by 4¼ inches or an equivalent area, for the address, stamps, postmarks, etc. See 131.224 regarding the arrangement of the address on post cards.

.23 Illustration of how to affix a first-class letter on a parcel:



.24 Parcels which bear address labels shall have the regular or postage meter stamps affixed by accepting postal employees so that the stamps overlap the upper right corner of the label, as shown in the following illustration:



Postmasters should seek the cooperation of business mailers by asking them to affix postage in this manner. Parcels bearing address labels covering any portion of the postage or showing other significant evidence of overlabeling shall be withheld from dispatch or delivery and must be immediately reported to the nearest postal inspector or postal inspector in charge.

or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

b. Except for authorized users of official mail, payment must be made in advance by cash or money order. Do not return lists to commercial mailers until charges and postage fees have been collected.

c. Payment for correction of lists submitted by persons entitled to use the franking privilege is made under the official mail reimbursement program. The post office that serves the address must submit a report on Form 103, *Originating Franked Mail*, to:

Revenue Statistics Branch
Office of Statistical Programs and Standards
U.S. Postal Service
(Attn: Originating Franked Mail)
Washington, DC 20260

d. Payment for correction of lists submitted by Federal agencies is made under the official mail reimbursement program. Submit a report on Item 013, *Routing Slip*, or by memorandum indicating the applicable charges and the name of the Federal agency for which the list was corrected, to:

Manager, Government Revenue and Examination Branch
Finance Department
U.S. Postal Service
Washington, DC 20260

.515 *Postage on Lists*

Typewritten lists are subject to postage at the first-class rate. Those prepared by stencil, mimeograph, printing, or similar process may be mailed at the third- or fourth-class rate depending on the weight. Return lists to customers free of postage.

.516 *Mailing List Correction Time Limitation*

Within 10 working days after receipt by the employee responsible for the correction and return of mailing lists, the lists must be corrected and returned to the owners. EXCEPTION: The 10-working days time limitation shall not apply to mailing lists received for correction between November 16 and January 1. Mailing lists received for correction between these dates shall be corrected and returned at the convenience of the post office, but as early as possible.

.52 FURNISHING ADDRESS CHANGES TO ELECTION BOARDS AND REGISTRATION COMMISSIONS

Residential change-of-address information is available to duly constituted election boards or registration commissions using permanent registration, at a cost of 5 cents for each change-of-address Form 3575 notwithstanding the schedule of fees in 262.7. An election board or registration commission desiring this information must submit to the postmaster a written request signed by an authorized official. The postmaster will send the request to the Regional Postmaster General for approval. On approval, the postmaster will receive necessary instructions from the Regional Postmaster General for release, control, and return of change-of-address Form 3575.

.53 ADDRESS CARDS ARRANGED IN SEQUENCE OF CARRIER DELIVERY

Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Withdraw cards with incorrect, nonexistent, or other undeliverable addresses. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them. Insert a blank card for each existing address that is not included in the owner's address cards, plates, or stencils. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing. The missing address must not be provided by the Postal Service. Postmasters must check to see that mailers whose lists have been arranged in sequence prepare bundles for each route with the individual pieces in address sequence. This service shall not be provided to mailers who do not make the required premailing preparation. It must not be provided as a substitute for the list correction service provided by 122.51.

.54 FURNISHING CITY AND STATE SCHEMES

To assist volume mailers in preparing their mailings, postmasters may furnish, on request, a copy of the city scheme or the State scheme used by clerks for sorting mail, and he may arrange address cards, plates, or stencils by carrier routes.

.55 ZIP CODING OF MAILING LISTS

.551 *Single-ZIP-Coded Offices*

It is the mailer's responsibility to ZIP Code mailing lists for the single ZIP-Code post offices described in 122.632 and the multi-ZIP-Coded post offices described in 122.633 (see also 122.634).

.552 *Multi-ZIP-Coded Post Offices*

Under the following conditions, post offices will sort mailing lists consisting of addresses for the multi-ZIP-Coded post offices described in section 122.633 (see also 122.634) according to five-digit ZIP Code delivery units at a charge of $1.50 per thousand addresses or fraction thereof, payable to the local postmaster upon submission of the list:

a. Mailers with EDP equipment must first match their mailing lists with Postal Service EDP magnetic tapes or data processing cards, or both, to obtain the maximum number of ZIP Codes for those addresses which were previously zoned and which were unaffected by zone boundary changes when the ZIP Code system was introduced. It will also provide ZIP Codes for one-code offices. The addresses to be separated by the post offices must be submitted on cards about the size and quality of a postal card. Data processing cards are acceptable. The cards must be separated by the post offices of address and submitted by the owner to his local post office.

b. Post offices will not write ZIP Codes on individual cards. The cards will be sorted to local ZIP Code areas by city primary distributors and will be securely tied in bundles with a facing slip on each bundle reading "All for ZIP Code Area _____." Return the ZIP Coded bundles to the post office or the owner according to who submitted the cards.

c. Mailing lists should be wrapped by the owner for mailing, when practicable, and must bear the name and address of the owner. The local postmaster shall enclose addressed penalty labels (Label 41) for use in returning the coded cards to his office.

d. Gummed labels, wrappers, envelopes, or postal or post cards indicative of one-time use will not be accepted as mailing lists.

.823 *Dependents Residing with Military Personnel*

a. Address mail to dependents for delivery through the sponsor's military unit in care of the sponsor. Example:

Master Robert Brown
c/o Sgt. Michael Brown, 081-32-6959
Company A, 6th Bn., 10th Inf.
Fort Gordon, GA 30905

b. Mail addressed to dependents for delivery at the sponsor's military quarters need not be addressed in care of the sponsor. Example:

Master Robert Brown
2519 C Street
Wright-Patterson AFB, OH 45433

.83 GEOGRAPHICAL ADDRESS

Mail showing a foreign city and country in addition to the military address is subject to the rates of postage and conditions for international mail. (See Publication 42, *International Mail.*)

Part 123

NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

123.1 GENERAL PROVISIONS

.11 SCOPE

Certain potentially undesirable, harmful or dangerous matter has been declared nonmailable by statute or regulation. This part contains the rules relating to such nonmailable matter in written, printed or graphic form. The rules relating to nonmailable articles and substances and the special conditions under which certain of them can be mailed are contained in Part 124.

.12 RULES

This part contains rules on advising mailers on mailings of matter covered in parts 123 and 124. These rules restrict postmasters in making decisions to exclude written, printed and graphic matter from the mails as nonmailable. See 123.3.

.13 OTHER NONMAILABLE MATTER

Matter is also nonmailable when it cannot be forwarded to its destination because of illegible, incorrect or insufficient address, or because it fails to comply with postal regulations regarding preparation for mailing, classification, rates of postage, size, weight, etc.

123.2 RESPONSIBILITY OF MAILER

It is the responsibility of the mailer to refrain from depositing nonmailable matter in the mails. When a mailer is in doubt as to whether particular matter is nonmailable, he should inquire of the postmaster prior to depositing such matter in the mails. See 123.3.

123.3 ADVICE TO MAILERS—MAILABILITY DECISIONS

.31 GENERAL ADVICE

When a mailer seeks advice from the postmaster as to whether particular matter may be mailed, or where the postmaster otherwise learns that matter of questionable mailability is to be mailed, it is the postmaster's responsibility to call to the mailer's attention the relevant provisions of Parts 123 and124 and any relevant guidelines issued by the Postal Service. The scope of the postmaster's authority to decide whether particular matter is nonmailable, and to exclude matter from the mails in accordance with his decision, depends upon the nature of the matter in question and is determined by this section.

.32 MAILABILITY DECISION NOT AUTHORIZED—WRITTEN, PRINTED AND GRAPHIC MATTER

Postmasters are *not* authorized to decide whether written, printed or graphic matter (Part 123) is nonmailable and to exclude such matter from the mails in accordance with their decisions. As stated in 123.31, postmasters should call the attention of prospective mailers of such matter to any apparently relevant provisions of Part 123. If, after being so informed, the mailer demands that matter described in Part 123 be accepted for mailing, such matter shall be accepted and shall be treated as provided in 123.35

.33 MAILABILITY DECISIONS AUTHORIZED

Postmasters may decide whether articles and substances (Part 124) are nonmailable and shall, where appropriate, refuse to accept for mailing such matter determined to be nonmailable. Where necessary, it is recommended that the postmaster consult the postal services center for guidance in determining mailability. If the mailer desires review of the postmaster's decision, the postmaster shall refer a sample or complete statement of the facts, whichever may be appropriate, to the Director, Office of Mail Classification, Rates and Classification Department. Further appeal may be made in accordance with 123.37.

.34 LAWS AND REGULATIONS OF OTHER AGENCIES

Postmasters shall not give advisory opinions concerning the mailing of articles and substances (Part 124) under laws and regulations administered by agencies other than the Postal Service, but postmasters shall inform postal customers of the existence of such laws and regulations, and the source from which further information may be obtained, when known. For example, postal customers with questions about the interstate shipment of rifles and shotguns should be referred to the Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, DC 20226, or to the nearest regional director of that Bureau.

.35 REFERRAL TO THE INSPECTION SERVICE

.351 Mail matter, believed to be nonmailable under this part, that has entered the mails, or a report containing information on such matter, shall be referred immediately to the Inspection Service and the matter shall be handled in accordance with instructions promptly furnished by the Inspection Service.

.352 Mail matter, believed to be nonmailable under Part 124, that has entered the mails shall be withheld from dispatch or delivery. Matter coming within the scope of 124.4 thru 124.7 (firearms and switchblade knives, controlled substances, motor vehicle master keys, abortive and contraceptive devices and materials, and intoxicating liquors) or a report containing information on such matter, shall be immediately referred to the attention of the Inspection Service. All other articles and substances, or a report containing information on such matter, shall be referred to the Director, Office of Mail Classification, Rates and Classification Department. Postmasters are authorized and directed to take any steps reasonable and necessary to protect Postal Service personnel and equipment from the effects of potentially dangerous or injurious materials or substances found in the mails.

.36 JUDICIAL DETERMINATIONS

The other provisions of this Part do not apply to matter, the mailability of which has been determined by the Judicial Officer or a court of competent jurisdiction. Such matter shall be treated in accordance with the applicable decision of the Judicial Officer or court, whichever is appropriate.

.37 ADMINISTRATIVE APPEALS

A mailer may appeal any unfavorable mailability decision under part 123 or part 124 by filing a written *Notice of Appeal* with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, together with a copy or description of the determination or ruling in question. Such appeals shall be governed by 39 CFR Part 953, *Rules of Practice in Proceedings Relative to Mailability*.

123.4 NONMAILABLE WRITTEN, PRINTED OR GRAPHIC MATTER GENERALLY

.41 SOLICITATIONS IN THE GUISE OF BILLS, INVOICES OR STATEMENTS OF ACCOUNT (39 U.S.C. 3001(d))

Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to the following requirements:

a. Each such solicitation shall bear the notice: THIS IS NOT A BILL. The notice shall appear on the face of such solicitation in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print thereon, and at least as large and as bold as any other print thereon but not smaller than 30-point type. The notice shall be located in accordance with one of the following options:
   (1) On the center of the diagonal described by a straight line drawn from the vertex of the lower left corner to the vertex of the upper right corner; or
   (2) Overprinting each portion of the solicitation which reasonably could be considered to specify a monetary amount due and payable by the recipient.
b. In addition to the requirements in a., such solicitation shall bear on its face the following disclaimer:
   THIS IS A SOLICITATION. YOU ARE UNDER NO OBLIGATION TO PAY UNLESS YOU ACCEPT THIS OFFER.
c. The disclaimer shall meet the following requirements:
   (1) It shall be surrounded by clear space of at least one-quarter inch;
   (2) It shall appear in boldface capital letters no smaller than 18-point type and of the same color as the notice required by .41a; and
   (3) It shall not, by folding or any other device, be rendered less prominent than any other information on the face of the solicitation.
d. Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

.42 LOTTERY MATTER (18 U.S.C. 1302)

.421 Any scheme or promotion, whether or not lawful under the laws of any state, which, upon payment of consideration, offers a prize dependent in whole or in part upon lot or chance, is a lottery.

.422 The following matter is unlawful mail matter:

a. Any letter, package, postal card, or circular which advertises, invites or otherwise permits or facilitates participation in a lottery;
b. Any lottery ticket or part thereof or substitute;

c. Any form of payment for a lottery ticket or share;
d. Any newspaper, circular, pamphlet, or publication of any kind containing any advertising of a lottery or similar enterprise, or any list of prizes awarded in such an enterprise.

.423 This section does not apply to any fishing contest not conducted for profit, wherein prizes are awarded for the species, size, weight, or quality of fish caught by contestants in any bona fide fishing or recreational event (18 U.S.C. 1305).

.424 This section does not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of its law contained in a newspaper published in that State or in an adjacent State which conducts such a lottery, or to the mailing to addresses within a State of tickets or other material concerning a lottery conducted by that State under the authority of its law (18 U.S.C. 1307).

.43 ADVERTISING MATTER

.431 Any advertising, promotional, or sales matter which solicits or induces the mailing of any article described in 124.2, 124.3, 124.47, 124.5 and 124.8 (harmful matter, radioactive material, controlled substances, knives and sharp objects and intoxicating liquor as well as pens, bottle caps and odd shaped items in envelopes), is likewise nonmailable, except that such matter relating to articles described in 124.2, 124.3, 124.47, 124.5, 124.83, 124.84, and 124.85 is mailable if it contains packaging instructions and any other limitations on mailing which are in accordance with such provisions of Part 124 (18 U.S.C. 1416).

.432 Advertisements for motor vehicle master keys (see 124.62) are nonmailable (18 U.S.C. 1716 A, 39 U.S.C. 3002).

.433 Any advertisement or other written representation that any article, substance, or thing may or can be used for producing abortion is nonmailable, except when the mailer has no commercial interest in any such item (18 U.S.C. 1461). (See 124.71.)

.434 Unsolicited advertisements for articles or things which are designed, adapted or intended for preventing conception are nonmailable, except when sent to a manufacturer of such articles or things, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital or clinic, or when the mailer has no commercial interest in any such item. Advertisements contained in a publication for which the addressee has paid or promised to pay a consideration, or which he has otherwise indicated he desires to receive, are not deemed unsolicited for the purposes of this section (39 U.S.C. 3001). (See 124.72.)

.44 OTHER PROHIBITED MATTER

The following are nonmailable:

a. *Fictitious Matter (18 U.S.C. 1342).* Any matter addressed to a person using any fictitious name, title, or address in conducting, through the mail, any scheme or device in violation of law if, after notification, the addressee fails to appear at the post office and be identified, or if the fictitious character of such mail is established to the satisfaction of the Judicial Officer in consequence of a proceeding initiated pursuant to 39 C.F.R. Part 953.
b. *Copyright Violations (17 U.S.C. 109).* Mail of foreign origin containing matter determined by a court of competent jurisdiction to violate the copyright laws of the United States, or any copyright convention or treaty to which the United States is a party.
c. *Certain Foreign Communications.* Matter addressed to foreign countries posted in violation of law or treaty stipulation.

will constitute an application for enforcement of the order. When the Postal Service finds, after appropriate administrative proceedings as described in Publication 125 and Title 39, Code of Federal Regulations, Part 916, that enforcement action is warranted, it requests the Department of Justice to seek a court order directing compliance with the prohibitory order.

.66 ABANDONMENT OF APPLICATIONS

An applicant for a prohibitory order or its enforcement will be deemed to have abandoned his application if he fails to comply, within 60 days, with any request by the Postal Service to supplement, correct, or complete his application. Abandoned applications need not be retained by the Postal Service.

.67 VOID ORDERS

A prohibitory order will be considered void upon expiration of five years from the date of issuance, except that when application for enforcement of a prohibitory order has been made, it will not be considered void until expiration of five years from the last application for enforcement. Postal Service files relating to such void orders may be disposed of provided a record is maintained of the disposal of each such file and the reason therefor.

.68 MODIFIED ORDERS

.681 An addressee protected by a prohibitory order who has a permanent change of mailing address may continue the protection provided by the order by notifying the mailer of his change of address and his desire to have the order honored with respect to the new address. The notification should be in writing and should be forwarded to the mailer by registered mail, return receipt requested. The notification should state that the addressee previously obtained a prohibitory order, and should identify the order by giving the prohibitory order number. It should also state the address covered by the order, that the addressee has had a permanent change of address, and the new address which the addressee wishes covered.

.682 To permit enforcement with respect to any violation of the order at the new address, a copy of the notification and return mailing receipt must be submitted to the postal services center which issued the order. Such written notification shall modify the order by substituting the new address for the address designated in the original or previously modified order. An order thus modified will take effect in the same manner as the original order.

.69 RATIFIED ORDERS

Orders issued on behalf of persons who had not attained nineteen years of age will not be enforced with respect to mailings received by such persons after they attain the age of nineteen, unless they ratify the order by giving written notice to the postal services center which issued the order that they wish to have the order continue in effect as to themselves. Such notice should include the prohibitory order number.

Part 124

NONMAILABLE MATTER—ARTICLES AND SUBSTANCES; SPECIAL MAILING RULES

124.1 GENERAL PROVISIONS

.11 SCOPE

Certain potentially harmful or dangerous articles and substances are nonmailable. Some of them may be mailed if specially prepared for mailing, or if mailed between specified classes of persons. This Part covers the rules applicable to nonmailable articles and substances and the special rules under which certain of them may be mailed. See Part 123 for rules relating to nonmailable written, printed or graphic material.

.12 RESPONSIBILITY OF MAILER

The mailer is responsible for compliance with applicable postal laws and regulations governing mailability and preparation for mailing, as well as other laws and regulations pertaining to the shipment of particular matter. The general requirements applicable to preparation, packaging, and packing of mailable matter are contained in Part 121.

.13 MAILABILITY RULINGS

For rules on giving advice as to the mailability of matter covered by this Part and Part 123, see 123.3.

.14 OTHER LAWS AND REGULATIONS

The customer's right to mail particular matter may be affected by conditions or limitations upon transportation of specific articles imposed by Federal agencies having jurisdiction over interstate transportation. See, for example: 49 CFR Parts 100 through 189 (Department of Transportation Regulations); 14 CFR Part 103 (Federal Aviation Regulations); the *Comprehensive Drug Abuse Prevention and Control Act of 1970* (Public Law 91-513), 21 U.S.C. 801; and the *Gun Control Act of 1968* (Public Law 90-618), 18 U.S.C. 921. For the rule on advising mailers about these other laws and regulations see 123.34.

.15 MARKINGS AND LABELS

.151 *Identification of Contents*

The identity or nature of contents of anything mailed under any of the provisions of Part 124, except firearms and switchblade knives (124.4), controlled substances (124.5) and motor vehicle master keys (124.6), must be stated plainly on the outside of the parcel as a condition of mailing. When the contents are hazardous material subject to Title 49 CFR, each package must be clearly marked on the outside with the required shipping name as set forth in 49 CFR Section 172.5.

.152 *Address Marking*

The name and address of both the mailer and the addressee must be affixed to the outside of any package, the mailing of which is covered by Part 124, using a material or method which is not water soluble and which cannot be easily rubbed off or smeared.

.153 *Labels*

Except for controlled substances mailed under 124.5, labels or other markings required by Federal law or regulation of any Federal agency must be securely affixed to the outside of the package. If the package is to be trans-

ported via aircraft, it must also bear the appropriate Department of Transportation hazardous material label.

.154 *Shipment by Aircraft Certification*

Every shipment of restricted articles mailable under Part 124, which will be transported by aircraft, shall be accompanied by a shipper's certification prepared in accordance with Federal Aviation Regulations, completed and signed in triplicate by the mailer.

.155 *Customs Declaration for Canal Zone*

Any package of merchandise, weighing 16 ounces or more, addressed to an individual in the Canal Zone must have customs declaration Form 2966–A, *Parcel Post Customs Declaration* (adhesive), and Form 2966, *Customs Declaration* (tie-on-tag), attached. Parcels addressed to a U.S. Government agency, including the Panama Canal Company, and the Canal Zone Government are exempt from this requirement.

124.2 HARMFUL MATTER (18 U.S.C. 1716)

.21 GENERAL

Except as provided below, any article, composition, or material which may kill or injure another, or injure the mail or other property, is nonmailable. Harmful matter includes, but is not limited to:

a. All kinds of poison or matter containing poison;
b. All poisonous animals, except scorpions (see 124.293d) all poisonous insects, all poisonous reptiles, and all kinds of snakes;
c. All disease germs or scabs;
d. Narcotics and other *controlled substances* as defined by 21 U.S.C. 801 or the regulations thereunder; and
e. All explosives, flammable material, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode.

Harmful matter also includes that which is likely to destroy, deface, or otherwise damage the mails or postal equipment, or which is likely to harm postal employees, such as caustic poisons (acids and alkalies), oxidizing materials, or highly flammable liquids, gases or solids; or which is likely under conditions incident to transportation to cause fires through friction, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from manufacturing or processing; explosives or containers previously used for shipping high explosives having a liquid ingredient (such as dynamite), ammunition; fireworks; radioactive materials; matches; or articles emitting obnoxious odors. (For advertisements for the mailing of harmful matter generally, see 123.431.)

.22 CHEMICALS

The great variety of chemical compositions precludes the listing of each such item that may be mailed and each such item that may not be mailed. The acceptability of chemicals for mailing generally depends upon container fluid/vapor capacities, the ability of the complete package to contain the product, and the method of absorbing and containing the product in case of accidental leakage of the primary container. To permit mailability determinations on specific products, the following information is required:

a. Name of material.
b. Chemical composition by percentage of ingredient.
c. Flash point.
d. Toxic properties.
e. Irritant action to eyes and skin.
f. Special precautions necessary to permit handling to avoid harm to postal personnel or property or other mail matter.

g. Explanation of warning labels required by State or Federal regulations.
h. Proposed method of packaging.

.23 EXPLOSIVES

All explosives, as defined by Title 49, CFR, are nonmailable, except for toy propellant devices and some safety fuses upon specific approval of the Office of Mail Classification.

.24 FLAMMABLE MATERIAL

.241 *Flammable Solids and Oxidizing Materials; Matches*

a. Flammable solids are those items, other than explosives, which are liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat or which can be readily ignited and when ignited burn rapidly, vigorously and persistently. Oxidizing materials are those, such as peroxide, which yield oxygen readily to stimulate combustion of organic matter. Flammable solids and oxidizing materials in general are subject to the rules relating to the mailability of chemicals.
b. Matches are mailable under the following conditions:
   (1) Strike-anywhere matches may not be mailed.
   (2) Safety matches (book, card or strike-on-box) may be mailed under the following conditions:
      (a) When offered for transportation, they must be of a type that will not ignite spontaneously when subjected for eight consecutive hours to a temperature of 200° F. (93.3° C), in a properly conducted laboratory test.
      (b) They must be of a type that will not ignite spontaneously under conditions normally incident to transportation and of a type which can be readily ignited by friction only by striking on the manufacturer's (or similar) box, card, or book.
      (c) Matches exceeding 3 inches in length, or having a stick exceeding .015 square inch in cross-section area, must be packed in outside fiberboard or wooden boxes.
      (d) They must be tightly packed to prevent movement within the container and to prevent ignition by rubbing against adjoining boxes, books, or cards.
      (e) They may be packed in the same outside container with nonflammable articles when packed in outside fiberboard or wooden boxes. Such matches must be compactly packed in tightly closed inside container or securely wrapped so as to prevent accidental ignition.
      (f) Shipments to be sent by air transportation shall be marked, *ORA, Group C - Safety Matches.* A shipper's certificate is not required.
   (3) Although safety matches are admitted in the domestic mail, they are prohibited in the international mail (see 323.133 of Publication 42, *International Mail*).

.242 *Flammable Liquids*

a. Flammable liquids and semi-liquids with a flash point of 20° F (-6.7° C) or below are nonmailable. If the flash point is above 20° F (-6.7° C) up to 100° F (37.8° C) the item may be accepted in the domestic surface mail. Flammable liquids must be in metal containers not over one quart capacity or in other containers not over one pint capacity, each packed in a strong outside container.
b. Combustible liquids with a flash point at or above 100° F (37.8° C) up to and including 200° F (93.3° C) may also be accepted for domestic and international air transportation and surface international mail subject to the quantity restrictions described below. There are no restrictions for liquids with a flash point above 200° F (93.3° C). Combustible liquids shall not exceed one gallon in containers each packed in a strong outside container. For air transportation and international mail, each outside container must

have sufficient absorbent cushioning within to take up all leakage. The cushioning material and primary container shall be enclosed within another sealed container within the outside container and the flash point shall be listed on the outside of the parcel. A shipper's certification is required for air shipment.

.25 GASES

Compressed gas containers containing gaseous matter must be of metal or of other nonshattering material meeting Federal requirements applicable to the interstate transportation of gases. Containers with release mechanisms must be cushioned to absorb shock and protected against damage or accidental discharge in transit (see 121.54). Definitions of terms covering compressed gases are set forth in Title 49, CFR. These items are generally considered mailable if exempt from specification packaging requirements of Title 49 CFR and associated tariffs applicable to their interstate transport. Nonexempt items are nonmailable.

.26 POWDERS

Powders which, if allowed to escape from their containers, could cause damage, discomfort, destruction or soiling, must either be packed in sift-proof containers or in other containers sealed in durable sift-proof outer containers.

.27 POISONS

.271 *Highly Toxic Poisons for Scientific Use*

Highly toxic poisons for scientific use, which are not outwardly or of their own force dangerous or injurious to life, health or property, may be shipped only between manufacturers, dealers, bona-fide research or experimental scientific laboratories, and employees of the Federal, State, or local governments who have official use for such poisons. Any such employee must be designated by the head of his agency to receive or send such poisons.

.272 *Highly Toxic Poisonous Drugs and Medicines*

Highly toxic poisonous drugs and medicines may be shipped only from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers and veterinarians (18 U.S.C. 1716).

.28 DISEASE GERMS AND BIOLOGICAL PRODUCTS

.281 *Packaging*

Disease germs and scabs, such as contained in etiologic agents, diagnostic specimens and biological products which may cause disease, are nonmailable, except when it is determined that such items are properly prepared for mailing and conform to Federal requirements applicable to interstate transportation of such matter. To be accepted, such matter must be packaged in waterproof inner containers which are not permeable by the contents. When other than dry items are mailed, the inner container(s) must then be packaged in sufficient absorbent cushioning material to completely absorb the contents in case of leakage of the inner container. The cushioning and inner container(s) of liquid or semi-liquid must then be enclosed in a sealed nonpermeable outer container, which may also serve as the shipping container.

.282 *Marking*

When applicable, the outer containers will have required marking affixed (e.g., the etiologic agent label required for international mail by section 221.123a, Postal Service Publication 42, and Title 42 CFR Section 72.25).

.29 PERISHABLE MATTER

.291 *Time Factor*

Harmless live animals, perishable foods, and game may be sent through the mail only if they can reach their destination in good condition in the normal transit time between the mailing and address points. Perishable foods may be shipped at the mailer's risk, provided they are not subject to rapid decay and the generating of obnoxious odors. Priority mail, special handling, or special delivery services are recommended.

.292 *Highly Perishable Food and Game*

a. Crates, boxes, baskets, or other containers used to ship highly perishable goods should be constructed to protect the contents and to prevent their escape.
b. Berries, fruits, and vegetables are not mailable unless presented in dry condition.
c. Water ice used as a refrigerant must be packed as though it were a liquid in accordance with 121.53. Dry ice (carbon dioxide solid) is acceptable when wrapped securely in heavy paper. Dry ice must not be packed in glass, metal, or other air-tight containers. Sufficient insulation is necessary if a fiberboard box is used, in order to prevent condensation and wetting of the shipping carton.

.293 *Live Animals*

a. *Live Day-Old Poultry*

Live day-old chickens, ducks, geese, pheasants (during the period April through August), guinea fowl, and turkeys are acceptable in the mail only under the following conditions:

(1) They must be presented for mailing in the original unopened hatchery box from the hatchery of origin.
(2) The date and hour of hatching must be noted on the box by a representative of the hatchery who has personal knowledge thereof. (In the case of COD shipments made by a hatchery for the account of others, the name or initials and address of the hatchery or the post office box number and address of the hatchery, must be prominently shown in connection with this requirement.)
(3) They must not be over 24 hours old.
(4) The box must be properly ventilated and of proper construction and strength to bear safe transmission in the mail. (These boxes will not be stacked more than 10 high).
(5) They can be delivered to the addressee within 72 hours of the time of hatching regardless of whether the addressee resides in town or on a rural or star route.
(6) They must be mailed sufficiently early in the week to avoid receipt at the office of address, in case of missed connections, on a Sunday, on a national holiday, or on the afternoon preceding a Sunday or holiday.
(7) Shipments shall not be forwarded to the addressee from the office of origin address nor returned to mailer if delivery cannot be made to either the addressee or sender within 72 hours of the time of hatching, but will be disposed of in accordance with 159.28. Shipments that are delayed beyond the 72-hour limit by washouts, snow blockades, wrecks, and the like, will be disposed of by postmasters in accordance with instructions in 159.28.
(8) If a COD shipment is received at the office of address and it is not promptly accepted by the addressee, it will be held for delivery until the expiration of the 72-hour period from the time of hatching. If

there is a possibility that delivery may be made within that period. If, at the expiration of the 72-hour period, the shipment has not been accepted, it will be sold. COD shipments will not be sold to the original addressee unless paid for in full, including all postal service charges. If the parcel is sent as ordinary or insured mail, it will be disposed of in accordance with 159.28.

(9) Boxes of day-old poultry of approximately identical size, securely fastened together to prevent separation in transit, may be accepted for mailing as a single parcel, provided such parcel does not exceed 100 inches in length and girth combined.

(10) Day-old poultry, originally shipped by air express or air cargo and then presented for mailing, must be in first-class condition, and prepared in accordance with paragraphs (1) through (6).

(11) The shipments must bear special delivery or special-handling postage in addition to regular postage.

(12) Day-old poultry vaccinated with Newcastle Disease (live virus) are nonmailable.

(13) Each box should bear, in addition to the address label on top, another address label on the side, or the narrow end, if the box is rectangular in shape, to eliminate unnecessary handling when boxes are stacked.

(14) Whenever live, day-old poultry is to be transported by aircraft, all provisions of the airline tariffs must be met and air carriers must have equipment available to safely deliver shipments within the specified time limitations, allowing for delays enroute in air and ground transportation.

(15) Day-old pheasants may only be accepted in the mail for the period of April through August each year.

b. *Other Animals*

(1) *Mailable.* Small, harmless, cold-blooded animals (except snakes) which do not require food or water or attention during handling in the mail and which do not create sanitary problems or obnoxious odors are mailable. For example, the following are mailable: Baby alligators and caymans not exceeding 20 inches in length, bloodworms, earthworms, mealworms, chameleons, frogs, toads, goldfish, hellgrammites, newts, salamanders, leeches, lizards, snails and tadpoles. Turtles (including terrapins, tortoises and all other animals of the Order *Testudinata*, Class *Reptilia*) with a carapace not exceeding 2½ inches in length, and viable turtle eggs, may be accepted for mailing only when accompanied by a certificate issued by the State Health Department of the State of origin certifying that such turtles or viable turtle eggs are free of bacteria of the *Salmonella* and *Arizona* genera. The certification shall be based upon results obtained through the test procedures specified by the Department of Health, Education, and Welfare (see 42 CFR 72.26). The mailing containers shall be marked in bold block letters: TURTLES OR TURTLE EGGS—COMPLIES WITH 124.293b, PSM. Turtles with a carapace exceeding 2½ inches in length are nonmailable. Animals mailed into the Trust Territory of the Pacific Islands require a permit issued by the Director of Agriculture of that Territory.

(2) *Nonmailable.* No warm-blooded animals except day-old poultry are acceptable. The following are examples of animals which are not mailable: Hamsters, white mice, rats, guinea pigs, rabbits, kittens, puppies, chickens, flying squirrels, parakeets, canaries and pigeons.

c. *Insects*

(1) Bees are acceptable in the continental surface mail when shipped in accordance with Federal and State regulations to assure that they are

free of disease. Packages of honey bees must bear special delivery or special handling postage. Queen honey bees only may be shipped by aircraft.

(2) Other live, nonpoisonous and nondisease-conveying insects may be sent through the mail, when properly prepared for mailing and when shipped in accordance with regulations of the U.S. Department of Agriculture. When such insects are mailed into the Trust Territory of the Pacific Islands, they are also subject to regulations of the Director of Agriculture of that Territory.

d. *Live Scorpions*

Live scorpions which are to be used for purposes of medical research or for the manufacture of antivenin will be accepted only in the continental surface mail when packaged in a double mailing container, both parts of which are closed or fastened to prevent escape of the scorpions. The inner container must be of material which cannot be punctured by the scorpions and must be plainly marked *Live Scorpions*. Cushioning material must be used when necessary to prevent shifting of the inner container. The outer container must be of sufficient strength to prevent crushing of the package or exposure of the contents during normal handling in the mail, and also must be plainly marked *Live Scorpions*.

e. *Packaging*

Shipping containers for mailable animals must be, at a minimum, made of 275 pound test, double wall, corrugated, weather resistant fiberboard (W5c) or equivalent and must be adequately ventilated. They must be constructed to prevent escape of the animals while in the mail and to preclude the container and its contents from being crushed in normal handling. They must be marked with a return address and a description of the contents. Packages marked *If Undeliverable Abandon* shall not be accepted.

.294 *Meat and Meat Products*

a. *Certificate Required*

Shipments of meats and meat products may be sent through the mail only if they conform with regulations of the U.S. Department of Agriculture under Federal statutes. Each shipment must be accompanied by a certificate by the mailer, unless the shipment shows on the outside the mark of Federal meat inspection. The mailer's certificate may be applied directly to the outside of the parcel, container or wrapper (in the case of volume shippers), or be submitted on Form 3583 filed at time of mailing (see 124.294c).

b. *Mark of Federal Meat Inspection*

Outside containers used to mail meat or meat products bearing the following mark of Federal Meat Inspection may be accepted without requiring a certificate:

c. *Form of Certificate*

(1) Volume shippers of U.S. inspected and passed products may elect to rubber hand stamp or by other means affix the following certificate to the address side of each package of meat and meat products;

I hereby certify that the following described product, which is offered for shipment in commerce, has been U.S. inspected and passed by the U.S. Department of Agriculture, is so marked, and at this date is not adulterated or misbranded.

Kind of product	Amount and weight
----------	----------
----------	----------
----------	----------

---------- Signature of Shipper

---------- Address of Shipper

(2) Mailers not preparing their shipments as provided in 124.294b or c(1) should use Form 3583 *Certificate of Shipper Interstate Mail Shipment of Meat or Meat-Food Products*. The form is designed for use by all other shippers of meat or meat-food products subject to the inspection regulations of the U.S. Department of Agriculture. Three types of certificates are included in the form. The shipper must complete both sides of the form and submit it to the postmaster with each shipment.

d. *Disposition of Form 3583*

The original Form 3583 shall be filed in such a manner as to be readily available to authorized Department of Agriculture employees. This original shall be maintained for a period of two years after December 31 of the year in which the transaction occurred. A copy will be provided the mailer upon request.

.295 Dead Wild Animals

The dead bodies, or parts thereof, of any wild animals, wild birds or their eggs, are acceptable for mailing only when they have been lawfully killed or taken, and their shipment is not prohibited by law of the United States or of the State, Territory, district or foreign country or subdivision thereof in which killed or taken or offered for shipment. Mailing of fresh game is also subject to requirements of 124.294.

.296 Furs, Hides, Skins, or Pelts

a. Parcels containing furs, hides, skins, or pelts of wild animals are mailable only when their contents are properly dried or cured, have no offensive odor, and are plainly marked, labeled or tagged on the outside with the names and addresses of the shipper and addressee, together with such endorsement, if any, as may be required by State laws.

b. Hides and pelts must be wrapped when necessary to prevent damage to other mail.

.297 Plant Quarantines

Regulations on plant quarantines are found in Postal Service Publication 14.

124.3 RADIOACTIVE MATERIAL (18 U.S.C. 1716)

Radioactive material may not be mailed except in accordance with the regulations found in Publication 6. (For advertisements for the mailing of radioactive material see 123.431.)

.512 *Copy Marked To Show Advertising*

The publisher must file, either with the postmaster of the original entry office or the postmaster of the additional entry office where the publication is produced or prepared for mailing, a copy of each edition of each issue marked by the publisher in such manner that the advertisements in the copy may be verified when necessary. The postmaster of the entry office where the marked copies are filed will promptly furnish to the postmasters of all the other entry offices statements of the verified per copy weights and the percentage of advertising shown by each marked copy. When the statements are not promptly received by the postmasters of the other entry offices, they should request the postmaster of the office where the marked copies were filed to furnish them. Continued failure to furnish the statements promptly should be reported to the Office of Mail Classification, Rates & Classification Department.

.52 DEFINITION OF ADVERTISING

The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

.53 STATEMENT SHOWING NUMBER OF COPIES MAILED

When postage is to be computed on the bulk weight of one issue as provided for by 125.61, the publisher must file with the first mailing of each issue a statement on Form 3542, *Statement Showing Number of Copies of Second-Class or Controlled Circulation Publication Mailed*, showing the number of copies included in each zone or other separation necessary for computing the postage, and the average weight per copy as determined in the manner prescribed by 125.62. When postage is to be computed at the end of each calendar month on the total bulk weight of all issues mailed during the month as provided for by 125.63, the statement must be filed not later than 72 hours after the first mailing of the last issue mailed each month and must show the average number of copies of each issue included in each separation, the weight of one

.74 COMPUTATION

.741 Compute the key rate on Form 3541 once each calendar year at 12-month intervals, using the subscribers' copies shown by zones on Form 3542 furnished in accordance with 125.72. If a new report on Form 3542 is filed at any time during the 12-month intervals showing mailings to each zone, a new key rate must be computed and used.

.742 Enter on the corresponding lines in column B of Form 3541 the number of copies for each zone shown on Form 3542. Apply the applicable pound rates shown in column F to the number of copies for each zone and enter the postage for each zone in column C of Form 3541. Divide the total postage in item 2, column C, by the total number of copies in item 2, column B, to obtain the key rate, which should be carried to six decimal places. Apply the key rate only to the total weight of the advertising portion. Apply the regular reading portion rate to the total weight of the reading portion. Computation of the key rate must be verified by an employee or supervisor other than the person who originally computed it. See exhibit 125.742.

.743 Prepare Form 3541 for subsequent mailings as shown on exhibits 125.743A and 125.743B until a new report on Form 3542 showing mailings to each zone is filed under 125.72 or 125.73. Where a key rate has been developed and is being used to compute postage for subscribers' copies, postage on sample copies shall be determined by using the same key rate unless the transient rate is chargeable (see 132.13 and 132.461).

125.8 CONTROLLED CIRCULATION PUBLICATIONS

The weight of mailings of controlled circulation publications (see part 133) is obtained in the manner prescribed for obtaining the weight of mailings of second-class publications. Controlled circulation postage is collected and accounted for in the same manner as second-class postage. Each mailing must be prepared and made up for dispatch in the manner prescribed for second-class mail (125.1 through 125.3).

COMPUTATION OF NEW KEY RATE
Form 3542

U. S. POSTAL SERVICE
STATEMENT SHOWING NUMBER OF COPIES OF SECOND-CLASS OR CONTROLLED CIRCULATION PUBLICATION MAILED

1. CITY	2. STATE AND ZIP CODE	3. DATE
Mayville	Maryland 21104	March 4, 1974

4. NAME OF PUBLICATION OR NEWS AGENT: Mayville Press

5. DATE OF ISSUE PRINTED IN COPIES: March 4, 1974

6. DATE OF MAILING

When this statement is for ONE ISSUE only, furnish the following information:

7. AVERAGE WEIGHT PER COPY FOR THIS ISSUE: .248750 LBS.

8. PERCENTAGE OF ADVERTISING IN THIS ISSUE: %

9. WEIGHT OF ONE SHEET: LBS.

10. COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE: LBS.

11. PERCENTAGE OF ADVERTISING COMPUTED ON CONTENTS OF FULL ISSUE: %

When this statement is for ALL ISSUES for a calendar month, furnish this following information:

12. TRANSIENT RATE COPIES — NO. OF COPIES:

NOTE: Do not use this form to declare pieces to be mailed at Postal Post Zone Rates. Such pieces must be mailed with postage affixed.

13. When postage is computed at the key rate, the lines for Zones 1 to 3 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in zone 14 during the 12-month intervals.

14. TYPE OF PUBLICATION (Check one)	POSTAL ZONES	SUBSCRIBERS' COPIES: No. of Copies	No. of Pieces*	No. of Pounds	SAMPLE COPIES WITHIN 10% LIMIT (Section 132.461, Postal Service Manual): No. of Copies	No. of Pieces*	No. of Pounds
☐ FEWER THAN 5,000 COPIES OUTSIDE COUNTY							
☒ 5,000 COPIES OR MORE OUTSIDE COUNTY	1 AND 2	2,621					
☒ REGULAR RATE	3	1,971					
☐ SPECIAL RATE	4	1,052					
☐ QUALIFIED CLASSROOM PUBLICATION	5	170					
☐ SCIENCE OF AGRICULTURE	6	124					
	7	38					
	8	21					
15. TOTAL TO ALL ZONES		5,997					
16. COPIES WITHIN COUNTY AT PIECE RATE							
17. LOCAL COPIES (132.111a, Postal Service Manual)							
18. NEWSDEALER'S COPIES (132.111b, Postal Service Manual)							
Foreign: 19. COPIES TO PUBLICATIONS OFFICES IN CANADA (132.114, Pub. 42)							
Foreign: 20. COPIES TO ALL OTHER COUNTRIES AND CANADA							
Controlled Circulation: 21. DOMESTIC (132, Postal Service Manual)							
Controlled Circulation: 22. FOREIGN (132.114, Pub. 42)							

*Number of individually addressed copies and packages of unaddressed copies

Joe Mays (Signature)

PS Form 3542

Post Office Services (Domestic) TL-42, 7-18-77, Issue 117

Part 126
MAIL ADDRESSED TO MILITARY POST OFFICES OVERSEAS

126.1 PREPARATION AND HANDLING

.11 POSTAGE

See section 135.221 for parcels sent by surface mail and 136.234 for parcels sent by air.

.12 PACKAGING REQUIREMENTS

In addition to meeting the requirements in Part 121 and the specific packaging requirements for items mailable under Part 124, packages addressed to overseas military post offices must, as a minimum, be packed in containers equivalent to 275 pound test fiberboard. Wood, metal or plastic containers of similar strength are equally acceptable. All containers of liquids and substances which easily liquefy must be packed, with sufficient absorbent material to take up all leakage in case of breakage, inside a second sealed waterproof container.

.13 ADDRESSING

See section 122.8.

.14 WEIGHT AND SIZE

See section 135.3 for parcels sent by surface mail and 136.3 for parcels sent as priority mail, if there is no exception to the size and weight limitations listed in 126.2.

.15 AIRLIFT MAIL

.151 First-class letter mail, including postal and post cards, and sound recorded communications having the character of personal correspondence are given airlift service on a space available basis between overseas military post offices outside the 48 contiguous States, and between those military post offices and the point of embarkation or debarkation of such mail within the 50 States. See 131.52 for these same articles mailed by certain servicemen. When postage is paid on sound recordings, they must be marked by the mailer on the address side *Sound Recorded Personal Correspondence* to assure airlift service. Those mailed free under section 131.52 must be marked only as required by that section.

.152 Parcels of any class paid at surface postage rates not exceeding the weight and size limits in (a) and (b) are airlifted to, from or between overseas military post offices outside the 48 contiguous States. These parcels must be marked with the large letters SAM (space available mail) on the address side, preferably below the postage and above the name of the addressee. Postal employees will place these letters on all such parcels at the time of acceptance:

(a) When mailed from the 48 contiguous States, the weight and size limits are not more than 15 pounds in weight and not more than 60 inches in length and girth combined.

(b) When mailed from an APO or FPO outside the 48 contiguous States, the weight and size limits are not more than 70 pounds in weight and not more than 100 inches in length and girth combined.

.153 Any parcel other than a parcel mailed as priority mail not exceeding 30 pounds in weight or 60 inches in length and girth combined which is mailed at or addressed to any overseas military post office outside the 48 contiguous States will be transported by air on a space available basis, upon payment of a fee of $1.00 in addition to the regular surface rate of postage. These parcels

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must be marked with the large letters PAL (parcel air lift) on the address side, preferably below the postage and above the name of the addressee. Postal employees will place these letters on all such parcels at the time of acceptance.

.154 Second-class publications published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public, which are mailed at or addressed to any Armed Forces post office *outside the 48 contiguous States*, will be given the airlift service provided in 126.152.

.16 GENERAL RESTRICTIONS

.161 The following items are nonmailable to, from, and between overseas military post offices:

a. Matches of all kinds.
b. Flammable liquids with a flash point below 100 F.
c. Poisons, except as specified in Part 124.
d. Magnetic material shipped by air having sufficient magnetic field to cause a compass deviation at 15 feet or more. Magnetic material causing a compass deviation at less than 15 feet shall have the required magnetic equipment caution label affixed. This does not apply to magnetic material when surface transportation is assured. However, packages containing magnetic material with unconfined fields must be clearly identified on the wrapper of the package as "*MAGNETIC—KEEP 15 FEET AWAY FROM NAVIGATIONAL EQUIPMENT*" and may not be transmitted by registered mail.
e. Radioactive matter, except that authorized in Publication 6.
f. Explosives, including ammunition.

.162 Firearms are subject to the provisions of part 124:

a. To export firearms not specifically prohibited by footnote F of 126.2, a mailer must present an export license from the Office of Munitions Control, Department of State, Washington, DC 20520. See Publication 42, *International Mail*.
b. The following provisions govern the importation of firearms by military personnel by mail from overseas Military Post Offices in accordance with Revenue Ruling 69-309, Bureau of Alcohol, Tobacco, and Firearms:
   (1) Incident to a permanent change of duty or release from active duty, any member of the armed forces who has been stationed on active duty outside the United States for the preceding 60 days may, without an import permit, present up to 3 rifles or shotguns, mailable under 124.4, to the appropriate armed forces transportation officer to be forwarded to the member's residence as unaccompanied baggage officially shipped through the U.S. mail. Firearms imported in this manner must be intended for the member's personal use.
   (2) Any member of the armed forces who wishes to import more than 3 firearms, mailable under 124.4, must prepare ATF Form 6, *Application and Permit for Importation of Firearms*, and comply with DOD regulation 5030.49-R and other appropriate military directives.
   (3) The 3-firearm limitation does not apply to firearms, mailable under 124.4, for which the member of the armed forces has proof of prior ownership in the United States. The member may personally mail these other firearms back into the United States or any of its possessions if he can establish to the satisfaction of the U.S. Customs Service that he previously took the firearms out of the United States or any of its possessions.
   (4) Any member of the armed forces importing firearms under paragraphs (1), (2), or (3) of this subsection must prepare ATF Form 6A, *(Firearms) Release and Receipt*, under 27 CFR 178.114(b); and he or his authorized agent must furnish this form and associated certification to the customs officer releasing the firearms.

.163 Since military mail may be diverted to air transportation when space is available or when there is an absence of surface transportation,

restricted articles sent to overseas military addresses should meet the quantity, packaging, marking and labeling requirements of *Federal Aviation Regulations*, Volume VI, Part 103, and international air transportation tariffs for passenger carrying aircraft.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09001	B-C-I	09040	A-B[1]-F-S	09077	B-C-D
09002	B-C-I	09045	B-C-D	09078	B-C-D
09007	B-C-D	09046	B-C-D	09079	B-C-D
09008	B-C-D	09047	B-C-D	09080	B-C-D
09009	B-C-D	09048	B*-C	09081	B-C-D
09010	B-C-D	09050	B-C-D	09082	B-C-D
09011	B-C-F[1]	09051	A-B[1]-F-S	09085	
09012	B-C-D	09052	B-C-D	09086	B-C-D
09017	B-E[2]-F-H[1]-R	09053	B-C-D	09088	B*
09019	B-C-I	09054	B-C-D	09090	B-C-D
09020	B[1]	09055	B*	09091	B-C-D
09021	B-C-D	09056	B-C-D	09093	B-C-D
09023		09057	B-C-D	09095	B-C-D
09025	B-C-D	09058	B-C-D	09098	B-C-D
09026	B-C-D	09059	B-C-D	09099	B-C-D
09028	B-C-D	09061	B-C-D	09102	B-C-D
09029	B-C-D	09066	B-C-D	09107	B-C-D
09030	I-N	09067	B-C-D	09108	B-C-D
09031	B-C-D	09068	B-C-D	09109	B-C-D
09033	B-C-D	09069	B-C-D	09111	B-C-D
09034	B-C-D	09070	B-C-D	09114	B-C-D
09035	B-C-D	09072	B-C-D	09117	A-B[1]-F-S
09036	B-C-D	09074	B-C-D	09118	A-B[1]-F-P-S
09038	B-E[2]-F-H[1]-R	09075	B*-C	09120	B*-C
09039	B-C-D	09076	B-C-D	09121	

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09123	B-C-D	09166	B-C-D	09227	B-C-D
09127	B*-C	09168	B-C-I	09228	A-B
09128	B-C-D	09169	B-C-D	09230	A-B
09129	B*-C	09170	C-D-N	09232	B-C-I
09130	B-C-D	09171	B-C-D	09238	B*-C
09131	B-C-D	09172	B-C-D	09240	B-C-I
09132	B-C-D	09173	B-C-D	09241	B*-C
09133	A-B[1]-F-S	09175	B-C-D	09245	B-C-D
09137	B-C-D	09176	B-C-D	09252	B-C-D
09138	B-C-D	09177	B-C-D	09253	A
09140	B-C-D	09178	B-C-D	09254	A-B[1]-F-S
09141	B-C-D	09179	B*-C	09277	B-C-D
09142	B-C-D	09180	B-C-D	09281	B-C-D
09143	B-C-D	09184	B-C-D	09282	
09144	B-C-D	09185	B-C-D	09283	
09146	B-C-D	09189	B-C-D	09285	
09150	B*-C	09193	B*-C	09286	
09154	B-C-D	09194	B*-C	09289	A-B[1]-F-S
09155	A-B-T	09202	A-B-G	09291	A
09159	B-C-F[1]	09205	A-B	09292	B-C-F[1]
09160	B-C-D	09210	B*-C	09293	B-C-I
09162	B-C-D	09220	B-C-D	09294	A-B[1]-F-S
09164	B-C-D	09221	B-C-I	09305	B-C-D
09165	B-C-D	09223	A	09309	B-C-D
		09224	A-B[1]-F-S		

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09320	A-B[1]-F-S	09452	B-C-D	09526	
09321	B-C-D	09453	B-C-I	09527	A-N
09322	B-C-D	09454	B-C-D	09528	A
09324	A-B[1]-F-S	09455	B-C-D	09530	A-B-C-F-M
09325	B-C-D	09457	B-C-D	09533	B-C-I[1]
09326	B-C-D	09458	B-C-D	09534	
09330	B-C-D	09460	B-C-D	09539	
09333	B-C-D	09501		09540	
09338	A-B-F-S	09502		09541	
09351	B-C-D	09505	O	09542	A-B-C-E
09352	B-C-D	09510	B*-C	09544	A-B-C-E
09353	B-C-D	09511	B*-C-J	09546	
09354	B-C-D	09512	B*-C-J	09549	
09355	B-C-D	09514	B*-C-J	09551	
09358	B-C-D	09515	B*-C-J	09552	
09359	B-C-D	09516	B*-C-J	09553	
09360	B-C-D	09518	B*-C-J	09554	
09370	B-C-D	09519	B*-C-J	09555	
09378	B*-C	09520	B-C-I	09556	
09380	A-B[1]-F-S	09521	B-C-I[1]	09558	
09401		09522	B-C-I[1]	09559	
09403	B-C-D	09523	B-C-I[1]	09560	
09405	B*-C	09524	B-C-I[1]	09571	C
09406		09525	A	09572	C
09407	B-C-D				
09411	B-C-D				
09451	B-C-D				

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09580	B[1]	09696	B-C-D	09867	M
09584	B[1]	09697	B-E[2]-F-H[1]-R	09869	B-C-F-I-M-N
09585	B[1]	09701	B-C-D	09870	C-D-N
09593		09702	B-C-D	09871	B-I-L-M-N
09597		09710	B-C-D	09872	B-C-D
09598		09742	B-C-D	09879	H-I-M-N
09607	B*-C	09743	B-C-D	09880	A-B-F-N
09611	B-C-D	09751	B-C-D	09881	I-M
09616	B-E[2]-F-H[1]-R	09755	B*-C	09883	B-I-M-N
09633	B-C-D	09757	B-C-D	09885	M
09659	B*-C	09777	A-B-C-E	09887	B-D-F-I-M-N
09662		09794	B-C-I	09889	B-I-M-N
09664	N	09801	B-C-D	09891	B-M-N
09666	B-C-D	09807	B-C-D	09892	A-B-F
09667	B*	09825	B[1]	09893	C-F-H-I-M-N
09669	B-C-D	09826	B[1]	09895	B-I-M
09670	B-C-I	09827	B[1]	09897	I
09671	B-E[2]-F-H[1]-R	09829	B[1]	09899	B-I-M
09672		09832	B[1]	96208	A-B
09676	B-C-M	09834	B[1]	96209	A-B-H
09678	B-N	09837	B[1]	96210	A-B-M
09689	B-C-I	09851		96212	A-B
09690	A	09860	B-C-D	96213	A-B
09692	B-C-D	09862	N	96218	A-B
09693	A	09865	B-I-M	96220	A-B

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96221	P	96302	A-B	96367	A-B-L-M
96224	A-B	96305		96369	A-B-H
96225		96311	F-K-L	96370	A-B
96230	A-B-L-M	96315	F-P-N	96371	A-B
96231	A-B	96319	F[1]	96397	A-B
96235	A-B-M	96323	A-B-M	96401	
96239	A-B-M	96324	A-B	96404	A-B-H
96244	A-B-M	96327	L	96405	A-B-H
96248	A-B-M	96328	A-B-M	96431	F-K
96251	A-B	96331	A-B-M	96432	F-K
96259	A-B	96333	M	96434	P
96263	F[1]	96334		96435	F[1]
96264	A-B	96335	A-B	96438	
96271	A-B	96336	A-B-M	96455	A-B
96274	F-K	96340	F[1]	96460	A-B
96276	A-B	96341		96468	F-N
96277	F-K	96343	A-B-M	96483	A-B
96282	F	96344	A-B-M	96488	A-B
96286	F-K-L	96346	F-N	96501	
96287	A-B-H	96351	P	96503	A-B-M
96290	F[1]	96356		96515	
96292	A-B-M	96358	A-B	96519	A-B-M
96298	F-K	96361	A-B-M	96528	F-K
96301	A-B	96366	A-B		

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96545		96658	F-K	98747	
96553		96659	F	98748	
96555	M	96680	A-B-H-Q	98749	
96556		96685		98750	
96557		96690	B-H-M	98760	A-B-M
96558		96692		98761	A-B-M
96570	A-B	96699	A-F	98762	A-B-M
96571	A-B	98703		98763	A-B-M
96601		98704		98764	A-B-M
96602		98706		98765	A-B-M
96605	O	98709		98766	A-B-M
96610		98710		98767	A-B-M
96611		98711		98768	A-B-M
96612		98713		98769	A-B
96613		98715		98770	A-B-M
96614		98716		98771	
96615		98723		98772	A-B-M
96630		98731		98773	A-B-M
96637		98732		98774	
96650	F-K	98733		98775	
96651	F-K	98736		98776	
96652	F-K	98737		98777	
96654	F-K	98742		98778	A-B-M
96656	F-K	98745		98781	A-B-M
		98746		98782	A-B-M
				98783	

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
98784		98792		98796	
98785		98793		98797	
98786		98794		98798	
98790		98795		98799	
98791					

FOOTNOTES

A. No mail of any class may contain securities or currency. Precious metals in their raw, unmanufactured state are also prohibited. Official shipments are exempt from these restrictions.

B. Customs Declaration form required, except that prepaid mail from a contractor, addressed to a military organization for official use, NEED NOT bear Customs Declaration but must be endorsed "Contents For Official Use—Exempt from Customs Requirement. Official mail from Government agencies DOES NOT require customs declaration or exemption endorsement."

B[1]. Two customs declarations required. One Form 2966-A and one Form 2966.

*Articles will be liable for customs duty and/or purchase tax unless they are bona fide gifts, personal use intended for military personnel or their dependents. When the contents of a parcel meet these requirements, the mailer should place a certificate similar to the following on the customs form under the heading—"Description of Contents" "Certified to be a bona fide gift, personal effects or items for personal use of military personnel and dependents thereto."

C. Cigarettes and other tobacco products prohibited.

D. Coffee prohibited.

E. Mail may not contain: 1. Medicines or vaccines not conforming to French laws. 2. Nonauthorized publications, reprints, and publications prohibited on account of their political character or immoral contents.

F. Mail of all classes may not contain firearms of any type. See definition of firearms in 124.4 Exception: Not applicable to firearms mailed to or by official U.S. government agencies.

F[1]. No mail of any class may contain privately-owned weapons addressed to an individual.

G. Only first-class letters, second- and third-class mail authorized.

H. Meats, including preserved meats, whether hermetically sealed or not, are prohibited.

H[1]. Pork and/or pork by-products prohibited.

(Continued)

(Continued)

I. Mail of all classes may not exceed the following dimensions:

Length	
42"	72" length and girth combined.
Over 42" to 44"	24" girth.
Over 44" to 46"	20" girth.
Over 46" to 48"	16" girth.

Maximum length 48".

[1] Provisions of this footnote are not applicable to registered mail.

[2] Provisions of this footnote are not applicable to official Government mail marked MOM.

J. Weight for other than registered mail is restricted to 50 pounds.

K. Mail which includes in the address the words "Dependent Mail Section" may consist only of letter mail, newspapers, magazines and books. No parcel of any class containing any other matter may be mailed to Dependent Mail Section. This footnote is not applicable if the address does not include the words "Dependent Mail Section."

L. All official mail prohibited.

M. Fruits, animals, and living plants are prohibited.

N. No registered mail accepted.

O. Personal mail addressed to vessels using this number is limited to unregistered first-class mail, and certified mail. Other classes of mail may not be accepted.

P. APO will be used for the receipt and dispatch of official mail only.

Q. Mail may not exceed 66 pounds and size is limited to 42 inches maximum length and 72 inches maximum length and girth combined.

R. All alcoholic beverages, including those mailable under part 124.81 are prohibited.

S. No parcels (merchandise) of any kind accepted.

T. Mailings of case lots of food and supplemental household shipments must be approved by the sender's parent agency prior to mailing.

Part 127

MAIL SENT VIA DEPARTMENT OF STATE TO U.S. FOREIGN SERVICE PERSONNEL ABROAD

127.1 WHO MAY USE

The facilities of the Department of State are available for sending unregistered and uninsured personal mail to authorized U.S. Foreign Service personnel stationed in other countries.

127.2 MAILING CONDITIONS

.21 ADDRESSING

The following form of address must be used:

Name
Foreign city (omit name of country)
Department of State
Washington, DC 20521

.22 CLASSES

Articles of all classes of domestic mail are acceptable.

.23 WEIGHT AND SIZE LIMITS

Domestic limits apply, including those in 135.3, except that no package may weigh more than 40 pounds or exceed 24 inches in length or 62 inches in length and girth combined.

.24 POSTAGE RATES

Postage must be paid at the applicable domestic rate for the classes of mail and type of service desired. (See 127.254.) The postage rates from the mailing office to Washington, D.C., apply to mail subject to zone rates.

.25 LIMITATIONS

.251 Airlift service from Washington, D.C., to destination will be provided only for communications in the form of letters, post cards, or tapes with recorded messages; for personal documents of value, such as deeds, wills, insurance policies, or titles; and for emergency supplies of prescription medicines or other urgently needed health items, such as prescription eyeglasses, hearing aids, orthopedic shoes, or dentures. Senders must mark the cover or wrapper to indicate the nature of the contents. For rapid transmission of other personal packages, senders must use the regular international air service, affixing customs declarations and addressing directly to the recipient in the foreign country. (See Publication 42, *International Mail*.)

.252 The Department of State prohibits tobacco products (except to selected foreign service posts), liquids, perishables, firearms, glass, and other fragile articles, as well as parcels intended for delivery to a third person.

.253 Packages must be securely and substantially packed. International postal forms (customs declarations, stickers, etc.) are not required on packages sent through Department of State facilities.

.254 Registration, insurance, and COD services are not available.

Subchapter 130 MAIL CLASSIFICATION AND RATES

Part 131

FIRST CLASS

131.1 RATES

.11 SINGLE PIECE RATES

The single piece rates are applied to each letter or piece of first-class mail according to its weight.

Kind of Mail	Rate
All first-class mail weighing 13 ounces or less except postal and post cards. See 136.12 for rates on first-class mail weighing more than 13 ounces.	13¢ for the first ounce or fraction of an ounce, 11¢ for each additional ounce or fraction of an ounce.
Single postal cards sold by the post office (see 141.13)	9¢ each.
Double postal cards sold by the post office (see 141.13)	18¢ (9¢ each portion).
Single post cards (see 131.222)	9¢ each.
Double post cards (see 131.222) (Reply portion of double post card does not have to bear postage when originally mailed.)	18¢ (9¢ each portion).
Presort rate (see 131.12)	The applicable first-class rate, less 1¢ per piece.
Business Reply: When the advance deposit trust account option is *not* used	The appropriate first-class postage; plus a surcharge of 12c per piece.
When the advance deposit trust account option is used	The appropriate first-class postage; plus a surcharge of 3.5c per piece.

.12 BULK PRESORT RATE

.121 *Identical Pieces*

The bulk presort rate is equal to the applicable single piece first-class rate, less one cent for each piece that is part of a group of ten or more pieces sorted to the same five-digit ZIP Code, or of a group of fifty or more pieces sorted to the same three-digit ZIP Code, when they are presented at one post office as part of a single mailing of not less than 500 pieces of first-class mail of identical size and weight, each weighing 13 ounces or less. All pieces must be individually addressed and sorted to the maximum extent; i.e., all five-digit sorts in groups of ten or more must be exhausted before proceeding to make up all three-digit sorts in groups of fifty or more. Full first-class postage must be paid on the residue not sorted to groups of 5- or 3-ZIP Code digits as described above. The mailing must be presented at a place and between the hours designated by the postmaster and must comply with the preparation

requirements in 131.5. Deposit of metered presort rate mail at other than these designated places will be considered misuse of a postage meter and grounds for revocation of the meter license in accordance with 144.23. Cards subject to sortation requirements of 131.224 are eligible for the presort rate if they meet all requirements for the rate.

.122 *Nonidentical Pieces*

a. Metered. Pieces of first-class metered mail which are nonidentical in size and weight may be mailed at presort rates providing all other requirements contained in 131.121 and 131.5 are met.
b. Mailings of nonidentical pieces with permit imprints may only be made under the provisions of 145.8 or 145.9.

.13 NONSTANDARD SURCHARGE

There is currently no surcharge for nonstandard mail as defined in 131.34. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

131.2 CLASSIFICATION

.21 DESCRIPTION

.211 First-class mail receives expeditious handling and transportation and consists of mailable:

a. Postal cards.
b. Post cards.
c. Matter wholly or partially in writing or typewriting, except authorized additions to second-, third-, and fourth-class mail provided by 132.471, 132.472, 134.6 and 135.5, and written or typewritten matter listed in 135.24 and 135.26.
d. Matter closed against postal inspection.
e. Bills and statements of account.

.212 Examples of first-class matter:

a. Handwritten or typewritten matter, including identical copies prepared by automatic typewriter, and manifold or carbon copies of such matter. Handwritten or typewritten matter does not include matter produced by computers.
b. Autograph albums containing writing.
c. Notebooks or blank books containing written or typewritten entries or stenographic or shorthand notes.
d. Blank printed forms filled out in writing, such as notices, certificates, and checks either canceled or uncanceled.
e. Printed price lists containing written figures changing individual items.
f. Printed cards or letters bearing a written date, where the date is not the date of the card but gives information as to when something will occur or has occurred.
g. Printed matter such as receipts, orders and printed letters not sent in identical terms to several persons that, by having a signature attached, are converted into personal communications. This does not apply to Christmas or similar printed greeting cards.

.213 Two or more individuals or firms, or a party acting as the agent of two or more individuals or firms, may not mail in one envelope to a mutual addressee the bills, statements of account, or other letters of the individuals or firms, unless the envelope is endorsed on the address side to show the number and weight of each letter enclosed and sufficient postage is paid at the

first-class rate on each such letter. Firms that are distinct legal entities are treated as separate firms for purposes of this regulation, regardless of their affiliation.

.214 An individual or firm may mail in one envelope more than one of its own letters to an addressee and pay postage at the first-class rate on the weight of the piece. Agents of a licensing authority may forward completed applications in one envelope to an office of the licensing authority and pay postage at the first-class rate on the weight of the piece.

.215 The following provisions are applicable to matter closed against postal inspection:

a. The Postmaster General may prescribe the manner of wrapping and securing mail not charged with first-class postage so that the contents of the mail may be easily examined. He shall charge the first-class rate of postage on all matter that cannot be examined easily.

b. To ascertain whether the proper rate of postage has been paid, postmasters may examine second-class mail and remove the wrappers and envelopes from other mail not bearing first-class postage if it can be done without destroying them.

c. Matter closed against inspection includes mail of any class so wrapped as not to be easily examined, except second-, third-, or fourth-class matter sealed subject to postal inspection. See 125.25, 134.8, and 135.6.

.216 The following is a description of bills and statements of account:

a. A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

b. Generally, a statement of account is the assertion of the existence of a debt in a definite amount owed by the addressee either to the sender or to a third party but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

c. A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount he is required to pay to acquit himself of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

d. A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

.217 *Presorted First-Class Mail*

Presorted first-class mail is mail presented in a manner that preserves the orientation, facing, and ZIP Code sequence of the pieces.

.22 POSTAL AND POST CARDS

.221 *Postal Cards*

A postal card is a card supplied by the Postal Service with a postage stamp printed or impressed on it, for the transmission of messages. A double postal card consists of two attached cards, each of which has printed or impressed thereon a postage stamp of the first-class rate for postal cards denomination, and one of which may be detached by the receiver and returned by mail as a reply.

.233 *Postage and Fees*

a. An annual fee of $30 will be charged each calendar year for each permit issued. The $30 permit fee is applicable at each office where mail will be returned except that if the business reply is to be distributed from a central office for return to branches or dealers in other cities, one permit obtained from the post office where the central office is located may be used to cover all the business reply mail of the distributor, if the holder provides a copy of the receipt to each office where mail is to be returned under that permit. The permit holder guarantees payment of postage and fees on any returns refused by such branches or dealers.

b. *Third party* business reply mail arrangements, whereby business reply pieces are distributed by a company, under its own permit and with its own indicia, for use by another party which is neither a branch nor a dealer of the distributor, are permissible provided:
   (1) The holder of the permit number appearing on the mail guarantees payment of postage and fees for all business reply pieces which he distributes;
   (2) The holder of the permit number appearing on the piece pays the annual business reply permit fee; and
   (3) The addressee to whom the piece is returned obtains its own business reply permit and itself pays the annual business reply permit fee and, if desired, the annual business reply accounting fee.

c. Permit holders will have the option of keeping a Business Reply Mail (BRM) advance deposit trust account at the post office, or paying postage due charges to the carrier upon delivery. A $75 accounting fee will be charged for each BRM advance deposit trust account at each post office where the mail is to be returned. This fee will be paid each calendar year or portion thereof. No accounting fee will be charged to customers who do not maintain an advance deposit. The business reply advance deposit trust account will be used only for payment of business reply postage and fees.

d. When payment is by BRM advance deposit trust account as provided for in 131.233b, the amount to be collected is the appropriate first-class, or priority postage plus a surcharge of 3.5 cents per piece.

e. Business reply mail addressed to several different firms at the same delivery unit may be delivered to *one* agent under one advance deposit trust account. The business reply mail for each firm participating in such arrangements must be covered under a valid business reply permit. Only one billing is to be provided by the Postal Service for each business reply advance deposit trust account. If the agent, or any of the firms participating in such arrangements desire separation of their charges, a separate trust account and accounting fee are required.

f. When payment is not by use of an advance deposit trust account, postage is collected on each piece of business reply mail at the time it is delivered. Postage due stamps for the amount due will be affixed to the mail or to Form 3582-A, *Postage Due Bill*. The stamps will be canceled and delivered to the addressee with the mail when he pays the amount due. Business reply mail will not be mixed with other mail in direct packages or sacks for individuals or concerns. See 131.233 for amount to be collected which may not include fees for any special services.

g. When no BRM advance deposit trust account is maintained, the amount to be collected is the appropriate first-class, or priority postage, plus a surcharge of 12 cents per piece. Payment at the 12-cent rate may be paid in cash or through a regular postage due account.

h. Cards which do not conform to the specifications contained in 131.222 are to be charged postage at the regular first-class rate, and *not* at the card rate.

.234 *Piece Count for Bulk Quantities*

The piece count for bulk quantities of business reply mail pieces of identical weight may be determined as prescribed in 145.573.

.235 *Form of Imprint and Address*

Any photographic, mechanical, or electronic process, or any combination of such processes, other than handwriting, typewriting, or handstamping, may be used to prepare the address side of business reply cards, envelopes, cartons, or labels. The address side must be prepared both as to style and content in one of the following forms without the addition of any matter other than a return address (see 141.114g for business reply window envelope requirements):

a. *Alternate Style and Content for Domestic Mail*

b. *Alternate Style and Content for Domestic Mail*

.236 *Form of Imprint and Address*

Business reply cards, envelopes, cartons, and labels may be distributed:

a. In any quantity for return to any post office in the United States and its Territories and possessions, including military post offices overseas; except in the Canal Zone, where they may not be returned without prepayment of postage. They should not be sent to any foreign country.
b. In any manner except by depositing in receptacles provided by customers for receipt of mail.

.237 *Responsibility of Distributor*

The distributor guarantees payment on delivery of postage on returned business reply mail. Any concern distributing business reply cards, envelopes, cartons, or labels under one permit for return to its branches or dealers guarantees to pay postage on any returns refused by any authorized addressees.

131.3 WEIGHT AND SIZE LIMITS

.31 WEIGHT

Each piece may weigh not more than 70 pounds.

.32 SIZE

Each piece may measure not to exceed 100 inches in length and girth combined. See 135.32 for instructions on how to measure.

.33 SHAPE, RATIO, AND SEALING FOR ENVELOPES, CARDS, AND SELF-MAILERS

The following standards apply to envelopes, cards, and self-mailers having postage paid thereon at the first-class postage rate:

a. Pieces less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Pieces having shapes other than rectangular are nonmailable.
c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.
d. Pieces not sealed or secured on all four edges so that they may be handled by machines are not recommended.
e. Cards having a thickness of less than 0.006 of an inch are nonmailable.

.34 NONSTANDARD FIRST-CLASS MAIL

.341 First-class mail weighing one ounce or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches, and
b. Height not greater than 6.125 inches, and
c. Thickness not greater than .25 inch, and
d. An aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

.342 Nonstandard mail often results in delays or damage to mail because it does not lend itself to machine processing. For this reason, mailers are encouraged to avoid mailing nonstandard first-class mail. It is anticipated that a surcharge will be imposed sometime in calendar year 1978 for nonstandard first-class mail.

131.4 PAYMENT OF POSTAGE

.41 SINGLE PIECE RATE

Mailers of first-class matter at single piece rate may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

.42 BULK RATE

.421 Mailings made at presort rates must be paid only by meter stamps or permit imprints. Except as provided in 131.422, metered postage must be for the first-class presort rate for qualifying pieces and the full first-class rate for residual pieces.

.422 For mailings paid by metered postage, the entire presorted mailing may be metered at the lower presort rate, if the entire mailing consists of pieces of identical size and weight. The additional postage for residual pieces for which the full single-piece rate is required is to be paid by means of a meter strip affixed to the back of Form 3602-PC, *Statement of Mailing, Bulk Rates.*

.423 When this form of payment is used, acceptance employees must verify the count of the residual pieces and ensure that the postage value of the meter strip equals the number of residual pieces *times* the difference between the full rate and the lower presort rate.

.43 ANNUAL FEE

A first-class presort mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class or airmail matter at presort rates. Any person who engages a business concern or another individual to mail for him must pay the $30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

131.5 PREPARATION OF PRESORT RATE MAIL

.51 ADDRESSES

The address on each piece must include the ZIP Code (or carrier route code if presorted directly to carriers).

.52 MARKINGS REQUIRED

Identifying words *PRESORTED FIRST-CLASS* must be incorporated as part of the permit imprint or be printed or rubber stamped by the mailer on each piece above the address and immediately below or to the left of the meter stamps or permit imprints. The marking may be printed by a postage meter, special slug, or *ad plate*. All pieces in the mailing including residual pieces not qualifying for the lower presort rate must be so marked.

.53 MAILING STATEMENT

Mailers who qualify for the first-class presort rate (see 131.121) must complete and submit a mailing statement with each mailing. The statement must be signed by the mailer or his authorized agent:

a. Form 3602, *Statement of Mailing - Permit Imprint*, for mail with permit imprints. If editions of the form earlier than December 1975 are used, two forms must be used: one for those qualifying for the lower presort rate, and one for those which do not. The form for those qualifying for the lower presort rate *must* be marked *PRESORT RATE* across the top of the form, and should only list the items which qualify for the lower presort rate. The form for the non-qualifying pieces *must* be marked *Presort Residual* across the top of the form and should only list the items which do not qualify for the lower presort rate.
b. Form 3602-PC, *Mailing Statement - Bulk Rates*, for mail bearing meter stamps. The blocks for weight of a single piece, number of pieces in a pound, and postage chargeable per piece need not be completed on Forms 3602-PC for presorted first-class mail. If editions of the form earlier than May 1976 are used, two forms must be used: one for those qualifying for the lower presort rate, and one for those which do not. The form for the qualifying pieces *must* be marked

d. *State Trays*
It is recommended, but not required, that packages remaining after traying, in accordance with 131.545a(2), b(2), and c(2), be prepared in state trays. A state pouch label in the following format must be firmly affixed to the end of the tray:

DIS CHICAGO IL 606 IL FCM PRESORTED FR RECORD CHICAGO IL

e. *Mixed States Trays*

Packages remaining after traying in accordance with 131.454a(2), b(2), c(2) and d, must be prepared in *Mixed States* trays. A mixed states pouch label in the following format must be firmly affixed to the end of the tray:

DIS CHICAGO IL 606 MIXED STATES FCM PRESORTED FR RECORD CHICAGO IL

f. *Residual Mail*

(1) Pieces remaining after bundles have been prepared into packages in accordance with 131.545a through e, are residual mail and are ineligible for the lower presort rate. Packages of residual mail must be placed in trays in such a way as to maintain the orientation and the ZIP Code sequence of the presort. Trays containing residual mail are not to bear a pouch label. The mail must be presented together with the lower-rated portion of a mailing, but must be clearly segregated therefrom to facilitate verification of the quantities of both the lower rated and residual pieces.
(2) In order to speed processing of the mail, it is recommended, but not required, that the mailer prepare state packages when there are 10 or more pieces to the same state. Orange label S must be affixed to the lower left corner of the address side of the top piece in each package.

g. *Exceptions to Bundling*

(1) The bundling requirements for presorted mail left over after filling full trays described in *a* through *e* may be waived when the use of separating tabs is approved by the local postmaster.
(2) The local postmaster may also waive the bundling requirements for loose-packed presorted flat mail sorted to one five-digit ZIP Code destination, when there is enough quantity to fill a number 3 sack. The flats must measure not less than approximately 8 inches high by 10 inches long.

131.6 PRESORT VERIFICATION

.61 Procedure

A designated employee in the weighing section, or other location where bulk mailings are accepted, shall verify that each mailing made at the presort rate is properly made up and presorted and qualifies for the presort rate. This is in addition to the postage computation verification performed for permit imprint mailings in accordance with 145.57. The designated employee must:

a. Verify that each mailing consist of at least 500 presorted pieces.
b. For each 10 trays or fraction thereof in a mailing:
(1) Select 2 trays of five-digit makeup and randomly withdraw and inspect by riffling 3 handfuls (about 120 letters) from each of the 2 trays to

determine whether the tray contains letters bearing other than the five-digit ZIP Code as shown on the tray label. If a discrepancy of 10 or more pieces is found, the mailing is disqualified.

(2) Select 2 trays of three-digit makeup and follow the procedures in (1).

(3) For the trays in (1) and (2), check if the proper labels are attached. If one improper label is found, check a total of ten trays. More than one improper label in ten trays is considered disqualifying.

(4) Check one tray of bundled mail to determine if the proper color-coded pressure sensitive package label is used on packages. If a wrong label is encountered, check a total of ten packages. More than one occurrence in ten packages is considered disqualifying.

(5) Check two packages to see if all pieces are in the proper bundles. If any improper bundling is detected, a total of five packages is to be checked. If more than four such improper pieces are in the five packages, the mailing is disqualified.

e. Riffle through one tray of residual mail to verify that it is in ZIP Code sequence. More than ten out of sequence in a tray is considered disqualifying.

d. If a mailing is disqualified, the next mailing by the customer at presort rates shall have twice the amount of pieces checked as called for above. In addition, one-fifth of the customer's mailings over the next six months shall receive such intensified checks.

e. For permit imprint mailings, verify that the quantity of lower rated *presorted* mail agrees with Form 3602. This is done by weighing the presorted mail and dividing the weight by the weight of a single piece.

f. For permit imprint mailings, verify that the quantity of *residual* mail agrees with Form 3602. This is done by weighing the residual mail and dividing the weight by the weight of a single piece.

g. Return permit imprint mailings to the mailer for corrective action or apply full rates as prescribed in 131.62 when the mailing does not qualify for the presort rate.

h. For metered mailings select a sample of ten pieces of the mailing at random. Each piece of the sample is to be weighed and verified for proper payment of postage and the correct date. Based on the results of the ten pieces checked use the following procedures for disposition of the mailing:

(1) If none of the pieces checked is short paid no further checks are necessary for proper payment of postage.

(2) If three or more of the pieces checked are short paid the mailing is to be rejected.

(3) If one or two of the pieces checked are short paid a second sample of forty pieces is to be made. Each piece of the second sample is to be weighed and verified for proper payment of postage.

(4) If a total of three or more pieces from both samples are found to be short paid or bear the wrong date the mailing is to be rejected.

(5) The mailing and Form 3602-PC, *Mailing Statement-Bulk Rates*, shall be returned to the mailer for corrective action when three or more pieces are found with insufficient postage or incorrect dates, or when the mailing does not qualify for the presort rate (see 131.62).

i. Mailers who elect to correct presort problems that result in disqualification of the mailing will generally be unable to return metered mail to the acceptance unit on the same day originally presented. The date in the meter stamp will thus reflect an incorrect mailing date. If the mailing is presented on the day immediately following its initial presentation and if it then

meets all other acceptance requirements, accept the mailing on a one-time only basis when:

(1) Its initial presort deficiencies resulted from mailing equipment problems beyond the mailer's control, or

(2) It is the customer's first mailing at the presort rate and the improper presort resulted from misinformation or misunderstanding of the presort requirements.

.62 ACCEPTANCE OF UNQUALIFIED METERED OR PERMIT IMPRINT MAILING AT SINGLE PIECE RATES

When the verification prescribed by 131.61 reveals a disqualification for the presort rate on a mailing, the mailer may elect to pay the single piece first-class rate in lieu of correcting the disqualification. Mailers may correct the Form 3602 or Form 3602-PC for unqualified mailings to indicate postage is to be paid at single piece first-class rates in 131.11. All other provisions of Part 145 are applicable to such mailings. Mailers of unqualified metered mailings must pay the difference in cash at the window and present their copy of the cash receipt at the acceptance point before the mail can be released for processing.

131.7 MAIL SENT BY MEMBERS OF THE U.S. ARMED FORCES

.71 LETTERS SENT POSTAGE COLLECT

Letters sent by soldiers, sailors, airmen, and marines in the United States military service located in the United States or other places where United States domestic mail service operates, addressed to places in the United States, may be dispatched for collection on delivery, under the following conditions:

a. The address side of the letter must be marked *Soldier's Letter, Airman's Letter, Sailor's Letter*, or *Marine's Letter*, as appropriate.

b. Under the marking, the letter must bear the signature and official designation, either with facsimile handstamp or in writing, of a commissioned officer to whose command the soldier or airman belongs, or of a surgeon or chaplain at a hospital where he is; and in the Navy and Marine service, of a commissioned officer attached to the vessel on which the member is serving or an officer commanding a hospital or detachment ashore where he is.

c. Postage, at single rate for each ounce or fraction, is collected on delivery.

.72 LETTERS SENT FREE

.721 Any personal letter mail, including post cards, in the usual and generally accepted form, and sound-recorded communications having the character of personal correspondence may be mailed free of postage under the following conditions:

a. When mailed by:

(1) Any member of the U.S. Armed Forces (Army, Navy, Air Force, Marine Corps, and Coast Guard) at any U.S. military post office in Vietnam and contiguous waters, as defined by regulations of the Department of Defense.

(2) Any member of the U.S. Armed Forces hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as the result of disease or injury incurred as a result of military service or operations in Vietnam and contiguous waters, and air space thereover.

b. When mailed to:
   (1) Any place within the United States, including Puerto Rico or any other possession of the United States, where the domestic mail service operates.
   (2) Any Army and Air Force or Navy post office.
c. When such mail bears:
   (1) In the upper right corner of the address side, in the handwriting of the sender, the word *FREE*, and
   (2) In the upper left corner of the address side the name of the sender, his service number, grade, and complete military address.

.722 Letter mail, post cards, and sound-recorded communications sent free under the conditions in 131.721 will be afforded transportation by air or other means which will give the earliest possible delivery to the addressee. This mail may not be registered, insured, or certified. It may be accepted as special delivery mail upon payment of the required fee.

131.8 SHIP LETTERS

.81 VESSELS NOT REGULAR MAIL CARRIERS

Letters for delivery in the United States, carried by vessels not regularly employed in carrying the mail, are charged double rate of postage to cover the fee paid to the vessel. The postage may be collected at the office of delivery or prepaid with United States postage stamps.

.82 VESSELS OPERATING OVER POST ROAD

Letters and packages carried from one port to another in the United States over a water route that is wholly a post road by law, in a private ship or vessel, are charged single rate of postage. If part of the water route is not a post road, double rates of postage are charged.

.83 DELIVERY BY THE MASTER OF A VESSEL

Wholly unpaid printed matter delivered to the post office by the master of a vessel arriving from a foreign port and not regularly engaged in carrying mail, is charged with double the third-class rate of domestic postage, to be collected on delivery, and dispatched to its destination.

Part 132

SECOND CLASS

132.1 RATES

.11 RATES CHARGED ON COPIES FOR DELIVERY WITHIN THE COUNTY WHERE PUBLISHED AND ENTERED AND FOR DELIVERY AT POST OFFICE WHERE PUBLISHERS' HEADQUARTERS OR GENERAL BUSINESS OFFICES ARE LOCATED

.111 *When Mailed at Office of Original Entry*

a. For delivery of publications *other than weeklies* at office of original entry by its letter carriers. b. For delivery of publications *other than weeklies* by the letter carriers at a different post office than the office of original entry within the delivery limits of which the headquarters or general business office of the publisher is located (except that the pound rates from the office of mailing apply if they are higher).	Publications issued more frequently than weekly: 1.8c per copy. Publications issued less frequently than weekly: Copies weighing 2 ounces or less: 1.8c per copy. Copies weighing more than 2 ounces: 2.9c per copy.
c. For delivery of *weekly* publications to addressees *residing within* the county where published from all offices within or without the county *including the office of original entry*. d. For delivery of all publications, of whatever frequency, through post office boxes or general delivery, and for delivery by rural or star route carriers, *at an office of original entry* which *has* letter carrier service. e. For delivery of all publications, of whatever frequency, by whatever services are provided, *at an office of original entry* which *does not have* letter carrier service. f. For delivery of all publications, of whatever frequency, to addressees *residing within* the county where published, from all offices within or without the county, *other than the office of original entry*.	2.1c (two and one tenths cents) per pound or fraction of a pound plus 0.7c (seven-tenths of a cent) per piece charge.

.112 *When Mailed at Office of Additional Entry*

a. The per copy rates in 132.111 a or b, for publications *other than weekly*, apply to copies mailed at additional entry offices and addressed for delivery either at the office of original entry or at the publisher's headquarters office, when postage at these rates is higher than the postage computed at the rates in 132.12.
b. The charges prescribed by 132.111 c, d, e, and f also apply to copies of publications, of whatever frequency, mailed at an office of additional entry *located within* the county where published and entered, to addressees *residing within* the county, for delivery at all offices within or without the county, including the office of additional entry, by whatever delivery services are provided.

.113 *Independent Cities*

Each publication having original entry at an incorporated city which is situated entirely within a county or which is situated contiguous to one or more counties in the same State, but which is politically independent of such county or counties, shall be considered to be within and a part of the county with which it is principally contiguous and copies mailed into that county are chargeable with postage at the rates in 132.111. Where more than one county is involved, the publisher will select the principal county and notify the postmaster.

.12 RATES CHARGED ON COPIES FOR DELIVERY OUTSIDE THE COUNTY WHERE PUBLISHED AND ENTERED, AND ON COPIES MAILED AT AN OFFICE OF ADDITIONAL ENTRY *LOCATED OUTSIDE THE COUNTY* WHERE PUBLISHED AND ENTERED (Publishers authorized to mail publications at the postage rates in 132.121 must submit an annual written request for authority to mail matter at the phased rates of postage provided pursuant to 39 U.S.C. 3626. A block for this purpose is provided on Form 3526, *Statement of Ownership, Management and Circulation*, for the editor, publisher, business manager or owner to sign in order to comply with this requirement. Failure to sign the appropriate block will subject the publication to the full rates.)

.121 *All Publications, Except Those Accepted at the Special Rate (132.122), Classroom Rate (132.123), or Science of Agriculture Rate (132.124)*

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	8.0	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	14.9
Zones 1 and 2	10.7	Zone 6	16.9
Zone 3	11.5	Zone 7	18.7
Zone 4	13.0	Zone 8	20.9

b. Per piece charge (cents):

(1) All publications except those provided for in (2)	2.8
(2) Publications mailing less than 5,000 copies per issue outside the county of publication	0.9

.122 *Special Rate Publications*

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	4.2	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	10.5
Zones 1 and 2	6.7	Zone 6	11.7
Zone 3	7.4	Zone 7	12.6
Zone 4	8.9	Zone 8	13.5

b. Per piece charge (cents): 1.1

c. The zone rates in 132.122a are applicable to issues in which the advertising portion exceeds ten percent. Issues containing ten percent or less advertising shall be computed at the nonadvertising rate in 132.122a.

d. The rates in 132.122a, b, and c, apply only to publications issued by and in the interest of the following organizations and associations (see 134.5 for definitions of organizations listed in a–h) not organized for profit and none of the net income of which benefits any private stockholder or individual, when specially authorized by the Postal Service: (see 132.33a)

(1) Religious
(2) Educational
(3) Scientific
(4) Philanthropic
(5) Agricultural
(6) Labor
(7) Veterans
(8) Fraternal

(9) Association of rural electric cooperatives
(10) The official highway or development agency of a State (LIMITED TO ONE PUBLICATION THAT MEETS ALL THE REQUIREMENTS OF 132.22 and that contains no advertising.)
(11) Program announcements or guides published by an educational radio or television agency of a State or political subdivision thereof or by a nonprofit education radio or television station.
(12) One conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State.

.123 *Classroom Publications*

(Religious, educational, or scientific publications designed specifically for use in school classrooms or in religious instruction classes.) All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	3.3	Advertising portion: (Cont.)	
Advertising portion:		Zone 5	7.8
Zones 1 and 2	4.2	Zone 6	9.8
Zone 3	4.9	Zone 7	11.1
Zone 4	6.1	Zone 8	12.9

b. Per piece charge (cents): 0.3

.124 *Science of Agriculture Publications*

The rates in 132.121 a and b apply to publications devoted to promoting the science of agriculture. Exception: When the total number of copies furnished during any 12-month period to subscribers residing in rural areas consists of at least 70 percent of the total number of copies distributed by any means for any purpose, the rate for zones 1 and 2, for the advertising portion, is 6.7 cents per pound.

.13 TRANSIENT RATE

Copies mailed by public.
Sample copies in excess of 10 percent allowance.
Copies to persons not included in list of subscribers.

10¢ for first 2 ounces; 4¢ each additional ounce or fraction thereof, or the fourth-class rate, whichever is lower.

.14 SECOND-CLASS RATES TO OTHER COUNTRIES

See Publication 42, *International Mail*.

.15 COMPUTATION OF POSTAGE CHARGES

The pound rates for both within (132.111a) and outside (132.121a) the county of publication are computed on the bulk weight of a mailing. The charge per piece for both within (132.111b) and outside (132.121b) the county of publication is computed on individually addressed pieces consisting either of single copies or packages containing unaddressed copies. When two or more unaddressed copies are mailed in a package, the package is considered as one piece. The per piece charge is applicable to all pound rate mailings

.16 WEIGHT LIMITS

There is no limit of weight for second-class mail to domestic destinations. See Publication 42, *International Mail*, for weight limits to other countries.

.17 WHO PAYS

Postage at the transient rate must be paid on all copies mailed by the general public. Only publishers and registered news agents may mail at the other second-class rates.

132.2 QUALIFICATIONS FOR SECOND-CLASS PRIVILEGES

.21 WHAT MAY QUALIFY

.211 *Mailable Publications*

Only newspapers and other periodical publications which meet the mailability criteria established in Part 123 may be mailed at the second-class rates. However, in view of *Blount v. Rizzi*, 400 U.S. 410 (1971), approval of an application does not represent a determination by the Postal Service that a publication is mailable pursuant to 39 U.S.C., section 3001(a), 18 U.S.C., section 1461 and section 1463. The term *periodical publications* includes:

a. Any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.
b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

.212 *With or Without General Advertising*

All publications that meet the basic qualifications explained in 132.22 may carry general advertising. The publications of the institutions and societies specifically named in 132.23 must meet all the basic qualifications except the requirement of a paid subscription list. They are excused from having a paid list only when they do not carry general advertising. Those that carry general advertising must have a paid list.

.22 BASIC QUALIFICATIONS

.221 *Regular Issuance*

Publishers must determine the number of issues they will publish each year and adopt a statement of frequency that will show at what regular intervals the issues will appear. Examples of statements of frequency are:

Daily	Semimonthly	Quarterly
Weekly	Semiweekly	Four times a year in
Monthly	Biweekly	January, February,
Monthly except during July and August	Weekly during school year	October, and November

A publication may not be published under a frequency that provides for less than four issues each year. Issues must be published regularly as called for by the statement of frequency. Publishers may change the number of issues scheduled and adopt a new statement of frequency by filing an application for second-class reentry. (See 132.34.) When a publication fails to maintain regular issuance according to its stated frequency, the postmaster will inform the publisher of the requirements and request compliance. If irregular issuance continues, or if the publication is discontinued, the postmaster will report all the facts, including publisher's current mailing address, to the Office of Mail Classification for determination as to whether proceedings should be instituted to revoke second-class mail privilege. See 132.8.

.222 *Issuance at Known Office*

Publications must be issued and mailed at a known office of publication. A known office of publication is a public office where the business of the publication is transacted during the usual business hours. The office must be maintained at the place where the publication has been granted original second-class mail privileges. Offices for the transaction of business may be maintained at more than one place, but mailings may be accepted at the second-class pound rates only at the post offices where original or additional mail privileges have been authorized.

.25 IDENTIFICATION STATEMENTS IN COPIES

Copies of publications must be identified as second-class mail by having the following items printed on one of the first five pages in a position where they may be easily located by postal employees and other interested persons:

a. *Name of publication.* The name of the publication must be shown on the front in a position and in a style and size of type that will make it clearly distinguishable from the name of the publisher or other items on the front.
b. *Date of issue.*
c. *Statement of frequency.*
d. *Issue number.* The copies of each issue must be numbered consecutively. The consecutive numbering of published issues may not be broken by assigning numbers to issues unavoidably omitted.
e. *Subscription price,* if the publication has one.
f. *Name of known office of publication and ZIP Code,* including street and number when there is letter-carrier service, must be printed in a position or in a style and size of type or with a designation that will make it clearly distinguishable from the names of other offices of the publication. When there is no post office at the place where published, the name of the post office where mailed must be shown as the office of publication. Addresses in mastheads and date lines must be printed so they will clearly show where change of address notices, undeliverable copies, orders for subscriptions, and other mail items are to be sent. See 135.26.
g. *Second-class imprint,* reading *Second-class postage paid at*..... When a publication is mailed at two or more offices, the imprint must read *Second-class postage paid at*..... *and at additional mailing offices.*
h. *Notice of pending application,* when copies are mailed while an application is pending, reading *Application to mail at second-class postage rates is pending at*.....

132.3 APPLICATIONS FOR SECOND-CLASS PRIVILEGES

.31 FILING BY PUBLISHER

The following applications should be filed by the publisher at the post office where the publication maintains its known office of publication (see 132.222):

a. *Original entry applications for publications and news agents.*

An application must be filed by the publisher before a publication may be mailed at the second-class rates. Two copies of the issue described in the application must also be filed. When one-half or more of the total copies distributed are purchased by news agents for resale or are consigned to news agents for sale, two copies each of at least four issues must be filed before an application is either approved or disapproved, to demonstrate compliance with the requirement for regular issuance at least four times each year. If the publication is printed in a foreign language, a brief translation of the contents of the copies must be furnished. A synopsis of each article and advertisement is usually sufficient. News agents must file applications before they may mail second-class publications at the second-class rates. Copies of all application forms may be obtained from local postmasters. The headings on the forms describe what information must be furnished by publishers and news agents. Use the following forms:

(1) File application Form 3501 for second-class mail privileges for a publication that meets the basic qualifications (see 132.22) at the post office of

the place where the known office of publication is located. When one-half or more of the total copies distributed are purchased by news agents for resale or are consigned to news agents for sale, postmasters will not accept an application on Form 3501, unless the publisher has completed the application by furnishing all of the information called for by questions 30 and 31.

(2) File application Form 3502 for second-class mail privileges for a publication of an institution or society (see 132.23) that does not meet the basic qualifications at the post office of the place where the known office of publication is located.

(3) File application Form 3501–A for permission to mail foreign publications in the United States at the post office at which the copies are to be mailed.

(4) File application Form 3501–A for registry of a person or firm as a news agent with the privilege of mailing second-class publications at the post office where mailings are to be made.

b. *Additional entry application.* A publisher may apply for permission to mail at additional entry post offices. A written request for an additional entry must be filed by the publisher at the post office where the publication has original second-class entry. A form is not provided for an additional entry application. The request may accompany the application for original entry. See 132.23 for fees required. The request must include the following information:

(1) Name of publication.
(2) Frequency of issue.
(3) Name of place where publication is printed.
(4) Name of the additional entry post office.
(5) Approximate number and weight of copies to be mailed at the additional entry post office.
(6) Specific geographical area to be served from the additional entry office. (The geographical area served by the additional entry office must include the entire local delivery area of the additional entry office.)

An additional entry will be authorized at a post office located in the same county in which the office of original entry is located only when the publication is entirely or partly produced or prepared for mailing at the additional entry office (see 132.315 for available exceptional dispatch privileges). An additional entry will be authorized only at a post office served by transportation facilities which will enable the mailings to be effectively and economically handled in the postal transportation patterns.

c. *Application for special rates.* A publisher may apply for permission to mail at special rates. A written request for special rates must be filed by the publisher at the post office where the publication has original second-class entry. The request may be filed jointly with the application for original entry or filed separately at the post office of original entry after a publication has been granted second-class mailing privileges.

(1) Special rate. Non-profit organizations and associations listed in 132.122 may apply to the postmaster for the special second-class rates. They must submit evidence to establish their non-profit status and to show that they come within one of the categories stated.

(2) Classroom rate. Publishers of religious, educational, or scientific publications designed for use in school classrooms or in religious instruction classes may apply to the postmaster for the classroom rate listed in 132.123. They must submit evidence showing that their publications are of this character and for the uses stated.

(3) Science of agriculture rate. Publishers of publications designed to promote the science of agriculture may apply to the postmaster for the special zones 1 and 2 advertising rate listed in 132.124. They must submit evidence that their publications are of the character and for the use stated and that more than 70 percent of the copies distributed by

any means for any purpose during any twelve-month period are to subscribers residing in rural areas.

d. *Application for reentry.* When the name or frequency of issuance of a publication is changed, an application for reentry must be filed on Form 3510 at the post office of original entry accompanied by two copies of the publication showing the new name or frequency. When the location of the known office of publication is changed, an application for reentry must be filed on Form 3510 at the new office, accompanied by two copies of the publication showing the name of the new office as the known office of publication. Copies of second-class publications will be accepted for mailing at the second-class postage rates during the time applications for their reentry are pending. Copies of Form 3510 may be obtained from local postmasters. An application for reentry is not required when only the ownership is changed unless the change disqualifies the publication for an entry which was authorized under 132.23.

e. *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. At least once each 6 months the accepting postmaster shall verify the number of copies received directly from the publisher. Any significant increase noted at the time of verification or at any other time shall be reported to the entry office where the postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

.32 ACCEPTANCE AFTER APPLICATION IS FILED

Publishers or news agents may not mail at the second-class rates until the application for second-class privileges is approved by the Director, Office of Mail Classification, Rates & Classification Department. See 132.34. Postmasters may not accept mailings at the second-class rates until they receive a written authorization from the Director, Office of Mail Classification. Postage at the applicable third- or fourth-class rates may be paid in money on mailings made while an application is pending. The postmaster will keep a record of such mailings on Form 3503, *Record of Deposits Made While Second-class Application is Pending*, and if second-class privileges are authorized by the Director, Office of Mail Classification, he will be instructed to return to the publishers or news agents the difference between the third- or fourth-class rates and the second-class rates. Form 3503 will not be kept and the difference will not be returned when postage is paid by stamps affixed.

.33 FEES

The fees to accompany applications for second-class original entry, reentry, or additional entry, or for registration as a news agent, are:

Kind	*Amount*
Original entry—circulation not more than 2,000	$30
Original entry—circulation 2,001 to 5,000	60

Original entry—circulation 5,001 and over	120
News-agent registry	25
Reentry because of change in title, frequency of issue, office of publication, or other reasons	15
Additional entry (Only one fee is collectible for an application for additional entry even though the additional entry being applied for modifies one or more additional entries previously approved.)	
Within zones 1 and 2	15
Within zones 3 to 8	50

If an application is not approved, no part of the fee is returned to the applicant.

.34 GRANTING OR DENIAL OF APPLICATION

.341 *Responsibility*

The Director, Office of Mail Classification, Rates and Classification Department, Headquarters, rules on all applications for second-class mail privileges, special rates, additional entry, and reentry.

.342 *Granting of Application*

If the Director grants the application, he notifies the postmaster at the office where the application for original entry was filed, who shall notify the applicant. Before taking action, on an application, the Director may call on the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish the information requested may be cause for denial of the application as incomplete or, on its face, not fulfilling the requirements.

.343 *Denial of Application for Original Entry*

If the Director denies the application, he will notify the publisher specifying the reasons for the denial. A denial of second-class mail entry is effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, in accordance with the provisions of 39 CFR § 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second-Class Mail Privileges. A copy of the Rules will be included with any notice of denial of an application.

.344 *Denial of Application for Additional Entries, Special Rates, and Reentry*

If the Director denies an application for additional entry, special rates, or reentry made in accordance with sections 132.312-.314, he will notify the publisher specifying the reasons for the denial. The denial becomes effective 15 days from receipt of the notice by the publisher unless the publisher files an appeal with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

.35 REVOCATION OR SUSPENSION OF SECOND-CLASS PRIVILEGES

.351 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.352 The Director, Office of Mail Classification, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a

publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons for his action. The ruling becomes effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, in accordance with the provisions of 39 CFR Part 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second-Class Mail Privileges. A copy of the Rules will be included with any notice of revocation or suspension.

.36 REVOCATION FOR ADDITIONAL ENTRIES, SPECIAL RATES, REENTRY AND EXCEPTIONAL DISPATCH.

The Director shall revoke authorizations for additional entry, special rates, reentry and exceptional dispatch whenever he finds that a publication or organization is no longer entitled to such authorization. Whenever the Director revokes any such authorization, he shall notify the publisher or organization specifying the reasons for the revocation. The revocation is effective 15 days from receipt of the notice by the publisher or organization unless an appeal is filed with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

132.4 WHAT MAY BE MAILED AT THE SECOND-CLASS RATES

.41 COMPLETE COPIES

Copies of the regular issues containing all of the pages may be mailed at the applicable second-class rates provided by 132.11 and 132.12 to subscribers, as samples (see 132.461 for limitation), and as provided for by 132.23. The transient rate provided by 132.13 applies to copies mailed to nonsubscribers and as excess samples. Copies which are not complete by reason of having pages or portions of pages removed must be charged with postage at the applicable third- or fourth-class rates.

.42 EDITIONS OR ISSUES

The following kinds of extra or special editions or issues may be mailed at the second-class rates:

a. Extra issues or editions issued for the purpose of communicating additional news and information received too late for insertion in the regular edition and not for advertising purposes.
b. Separate editions of the issues of a second-class publication. Separate publications will not be accepted as editions.
c. Issues containing annual reports, directories, lists, and similar text as a part of the contents, but the copies may not be distinguished from the regular issues by bearing designations which indicate they are annuals, directories, catalogs, yearbooks, or other types of separate publications. The regular annual subscription price must include the copies of such issues.

.43 BACK NUMBERS AND REPRINTS

The following kinds of back numbers and reprints may be mailed at the second-class rates:

a. Unbound copies of back numbers as long as entry is in effect.
b. Unbound reprint copies of daily publications printed within 1 week after the date of issue.
c. Unbound reprint copies of other than daily publications printed before the next issue is printed.

Other reprints and bound back numbers are charged with postage at any applicable third- or fourth-class rates.

.44 SUPPLEMENTS

Issues may include supplements subject to the following conditions:

a. The supplement must be germane to the issue, and prepared in order to complete it, having been omitted for want of space, time, or greater convenience.
b. Publishers must be paid at advertising rates and charges for carrying preprinted advertising supplements germane to the issue which are furnished to them by advertisers or others.
c. Publications which are distinct from and independent of the regular issue, such as catalogs, circulars, handbills, posters, and other special advertisements, and which are, therefore, not germane to the issue, may not be inserted as supplements.
d. A supplement must bear the title of the publication preceded by the words *Supplement to*.
e. Supplements must be folded and mailed with the regular issue.
f. Bound periodicals must observe the provisions of 132.48.

.45 PARTS OR SECTIONS

.451 The regular pages of publications may be prepared in parts or sections. Enclosures prohibited as supplements may not be prepared as parts or sections.

.452 Each part or section must show the title of the publication.

.453 The number of parts or sections in which the issue is published must be stated on the first page of the first part or section.

.454 Publishers must pay at a rate that is not nominal for parts or sections produced by others. The parts or sections may not be issued by or for advertisers. Publishers must submit to the Office of Mail Classification, Rates and Classification Department contracts entered into with producers of parts or sections.

.46 COPIES NOT PAID FOR BY THE ADDRESSEE

.461 *Sample Copies*

a. Complete copies of regular issues or editions may be mailed as samples at the second-class rates provided by 132.11 and 132.12.
b. Samples may be mailed at any time during a calendar year to the extent of 10 percent of the total estimated weight of copies to be mailed to subscribers during the calendar year. For publications having additional entries, the postmaster at the original entry office is responsible for determining that sample copies do not exceed the 10 percent limit. At the end of each calendar year the postmaster at the original entry post office must request from each additional entry office the weight of subscriber and sample copies mailed during the year.
c. The words *Sample Copy* must be shown on the address side of the envelopes or wrappers or the outside cover of unwrapped copies.
d. Samples for delivery in the county of publication are subject to the rates shown in 132.11.
e. The transient rate provided by 132.13 must be paid on samples mailed in excess of the 10 percent limit.
f. Copies mailed for advertising purposes under arrangements with advertisers or others and copies mailed by a publisher acting as an agent for an advertiser may not be mailed as samples.
g. Sample copies may be mailed to boxholders with each copy addressed in the simplified manner shown in 122.41. Copies so addressed and marked *Sample Copy* must be mailed to each boxholder on the rural or star route or to each boxholder at post offices not having city letter carrier service. Copies may not be mailed only to nonsubscriber boxholders. All copies mailed in this manner are considered as samples even though some boxholders are subscribers. Such copies are individually addressed copies.

.462 *Copies Paid for by Advertisers*

Copies paid for by advertisers or others for advertising purposes may be mailed only at the transient rate provided by 132.13. When copies are being furnished free to the addressees, publishers may be required to tell the postmaster the purpose for sending the copies, the amount that the publisher received for the copies, and whether the purchaser is an advertiser.

.463 *Copies Paid for as Gifts*

A minor portion of the subscription list may consist of persons whose subscriptions were paid for as gifts. Subscriptions paid for by advertisers or other interested persons to promote their own interests and subscriptions given free by the publishers are not gift subscriptions; postage at the transient rate in 132.13 must be paid on these copies.

.464 *Exchange Copies*

A minor portion of the subscription list may consist of publishers to whom exchange copies are sent, one copy for another.

.465 *Expired Subscriptions*

Copies will be accepted at the pound rates of postage for a period of 6 months after a subscription has expired, if the publisher attempted during the 6 months to obtain payment or a promise to pay for a renewal. Postage at the transient second-class rate will be charged on copies sent after 6 months to persons who have not renewed.

.466 *Advertisers' Proof Copies*

One complete copy of each issue may be mailed at the pound rates to each advertiser in the issue to prove that the advertisements have been printed or, instead, copies may be mailed to the advertising representatives or agents of the publication. The number of proof copies of each issue sent under this section may not exceed the number of advertisers in the issue.

.467 *Mailed by Printer*

Copies sent by a printer to a publisher are chargeable with postage at the third- or fourth-class rate, whichever is applicable, according to the physical characteristics of the publication and the weight of the package or parcel.

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.54 WHEN SUBJECT TO TRANSIENT SECOND-CLASS RATES

Unsold copies returned to publishers or other news agents, or copies sent to other news agents except for purpose of sale, or to persons not having subscriptions with news agents, are subject to transient second-class rate.

.55 RETURN OF PORTIONS OF UNSOLD PUBLICATIONS

The head or small portions of publications returned to publishers to show that copies have not been sold are subject to postage at third- or fourth-class rates according to weight.

132.6 OWNERSHIP, MANAGEMENT AND CIRCULATION STATEMENT

.61 REQUIREMENTS, AS CONTAINED IN 39 U.S. CODE, 3685

.611 Each owner of a publication having second-class mail privileges under 132.22 shall furnish to the Postmaster General at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as he may require respecting—

a. The identity of the editor, managing editor, publishers, and owners;
b. The identity of the corporation and stockholders thereof, if the publication is owned by a corporation;
c. The identity of known bondholders, mortgagees, and other security holders;
d. The extent and nature of the circulation of the publication, including, but not limited to, number of copies distributed, methods of distribution, and extent to which such circulation is paid in whole or in part; and
e. Such other information as he may deem necessary to determine whether the publication meets the standards for second-class mail privileges.

The Postmaster General shall not require the names of persons owning less than 1 per centum of the total amount of stocks, bonds, mortgages, or other securities.

.612 Each publication having second-class mail privileges under 132.23 shall furnish to the Postmaster General information in such form and detail, and at such times as he requires, to determine whether the publication continues to qualify thereunder. In addition, the Postmaster General may require each publication which has second-class mail privileges under 132.22 or 132.23 to furnish information, in such form and detail and at such times as he may require, to determine whether the publication continues to qualify thereunder.

.613 The Postmaster General shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of second-class mail privileges for failure to furnish the required information.

.62 PROCEDURES

.621 All publishers of publications having second-class mailing privileges, including the publishers of foreign publications accepted at the second-class postage rates under the provisions of 132.24, must file on or before the first day of October, a statement on Form 3526, *Statement of Ownership, Management and Circulation*, in duplicate, at the post office where the original second-class permit is authorized.

.622 Publishers who file a statement under the provisions of section 132.611 shall publish the complete statement in the second issue thereafter of the publication to which it relates. Publishers who file a statement under the provisions of section 132.612 are not required to publish the statement. Publishers of foreign publications accepted at the second-class postage rates under the provisions of 132.24 are not required to publish the statement.

.623 Publishers of second-class matter mailed at the post offices designated in the revenue and cost analysis sampling system (whether they are original or additional entry offices), must also complete Form 15, *Second-Class Publisher's Statement of Number of Copies*, and if applicable, Form 15E,

Second-Class Publication, Foreign Destinations, Postage Affixed, for the mailings, at the sampling offices only, of the issue for which Form 3526 in .621 was prepared. Forms 15 and 15E will be furnished to publishers by their postmasters. Completion of Forms 15 and 15E is not required for publications whose application for second-class original entry is in a pending status.

.624 A publication which fails to comply with the requirements of this section within 10 days after notice by certified mail of the failure may not be mailed at the second-class rates of postage until it has come into compliance.

.625 Postmasters shall:

a. Furnish at least 3 copies of Form 3526 for each publication not less than 10 days prior to October 1. One copy of the completed Form 3526 should be retained by the publisher for his records.
b. Examine each statement filed in duplicate to see that it contains all of the information required by law.
c. Return incomplete or incorrect statements to the publishers and obtain from them complete and correct statements.
d. Arrange the original copies alphabetically by titles and forward them to the Director, Office of Mail Classification, Rates and Classification Department, Washington, DC 20260. Retain the duplicate copies.
e. Obtain a copy of the issue of each publication in which the required statement is published. Verify the correctness of the published statement. File the copy. DO NOT forward it to Headquarters. Promptly report to the Rates and Classification Department, Office of Mail Classification, any instance where a publisher fails to file or to publish a statement.

132.7 MARKING OF PAID READING MATTER

.71 Editorial or other reading matter contained in publications entered as second-class mail and for publication of which a valuable consideration is paid, accepted, or promised shall be marked plainly *advertisement* by the publisher.

.72 Whoever, being an editor or publisher, prints in a publication entered as second-class mail editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same *advertisement*, shall be fined not more than $500. (18 U.S.C. 1734)

.73 Each paid editorial or other reading matter which occupies all or any part of one page, or which occupies more than one page, must be marked plainly "advertisement" either on the one page or on the first page. The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

132.8 CANCELLATION OF SECOND-CLASS PRIVILEGES

.81 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.82 The Director, Office of Mail Classification, Rates and Classification Department, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons therefor. The ruling becomes effective in 15 days from receipt by the publisher unless the publisher appeals therefrom.

.83 A copy of the procedures governing administrative appeals and hearings relative to the denial, suspension, or annulment of second-class mail privileges may be obtained from the Director, Office of Mail Classification, Rates and Classification Department.

Part 133

CONTROLLED CIRCULATION PUBLICATIONS

133.1 RATES

Per pound or fraction of a pound	10.8 cents
Per piece charge	3.2 cents

The per piece charge is in addition to the pound rate.

133.2 PERMITS

.21 QUALIFICATIONS

Publications must:

a. Contain at least 24 pages.
b. Contain at least 25 percent nonadvertising.
c. Be issued at regular intervals of four or more times a year.
d. Not be owned and controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control them.

.22 APPLICATIONS

Apply by letter to the postmaster at the office where mailings are to be made. State the name of the publication, frequency of issue, where published, the name of the publisher, and whether the publication is circulated free or mainly free. Submit two copies of the issue published nearest to the date of application marked to show the nonadvertising content as required in 133.4. The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, DC 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division.

.23 APPEAL OF DENIAL

If the application is denied and the mailer wishes to appeal, he may submit an appeal in writing within 15 days of receipt of the notice of denial to the postmaster who will forward the appeal to the Director, Office of Mail Classification for final ruling.

.24 DEPOSITS TO COVER POSTAGE

While an application is pending, deposits in money to cover postage on mailings at the third- or fourth-class rates may be made by the publisher. The excess deposits will be returned if a permit is issued.

.25 REVOCATION OF CONTROLLED CIRCULATION PRIVILEGES

.251 If a publication is discontinued, or fails to meet the requirements described in part 133, the postmaster should report all the facts, including the publisher's current mailing address, to the General Manager, Domestic Mail Classification Division, so that a determination may be made as to whether action should be taken to revoke the controlled circulation mail privileges.

.252 If it is determined that a publication authorized to be mailed at the controlled circulation rates is no longer qualified, the General Manager, Domestic Mail Classification Division, shall notify the publisher and the postmaster at the office of entry. Controlled circulation privileges will be

revoked 15 days from receipt of the notice by the publisher unless an appeal is filed with the postmaster who will forward it to the Director, Office of Mail Classification, for a final agency ruling.

133.3 IDENTIFICATION STATEMENTS

The following items must be printed on one of the first five pages of each copy, in a position where they may be easily located by postal employees and other interested persons:

a. Name of the publication on the front.
b. Date of issue.
c. Frequency of issue.
d. Address of publisher including street and number when there is carrier delivery service and the ZIP Code.
e. Subscription price, if the publication has one.
f. Controlled circulation imprint, reading: *Controlled circulation postage paid at* _____. When a publisher has filed applications at more than one post office, and has received authorizations at each office, the imprint must read: *Controlled circulation postage paid at* _____ *and at* _____.
g. Notice of pending application when copies are mailed under deposits of money, reading: *Application to mail at controlled circulation rates is pending at* _____.

A notice must be printed or handstamped on the envelopes or wrappers in which copies are mailed, reading: *Controlled circulation postage paid at* _____. When a publisher has filed applications at more than one post office, and has received authorizations at each office, the notice must read: *Controlled circulation postage paid at* _____ *and at* _____.

133.4 FILING OF MARKED COPY

A copy of each issue, marked by the publisher to show nonadvertising to the extent of at least 25 percent of the total reading and advertising portions of the publication, must be filed with the postmaster at the time of mailing. The percentage of nonadvertising must be written on the first page of the copy. Advertising includes paid advertising and the publisher's own advertising. The advertising may be in display, classified, or editorial style.

133.5 ENCLOSURES

Enclosures are not permitted.

133.6 ADDRESSING, PREPARATION FOR MAILING, WEIGHING, AND COLLECTION OF POSTAGE

See 122.7 for applicable addressing requirements; 125.1 through 125.33 for applicable preparation requirements; and 125.6 for weighing and collecting of postage procedures.

133.7 STATISTICAL STATEMENT

Publishers of controlled circulation matter must execute Form 8-C, *Pieces by Destination, Controlled Circulation Publications*, for the first mailing of each fiscal year, and for the first mailing, at any time, at a new post office of entry after the authorization to mail at controlled circulation rates has been received. The form will be distributed to publishers by their postmasters. Failure to comply with this requirement will result in non-acceptance of the mailing by the Postal Service.

Part 134

THIRD CLASS

134.1 RATES

.11 SINGLE PIECE RATE

.111 All matter not in the first or second class (see 134.31 for weight limit) except mailings made under 134.12 and 134.13:

0 to 2 ozs	14¢	Over 8 to 10 ozs	61¢
Over 2 to 4 ozs	28¢	Over 10 to 12 ozs	72¢
Over 4 to 6 ozs	39¢	Over 12 to 14 ozs	83¢
Over 6 to 8 ozs	50¢	Over 14 but less than 16 ozs	94¢

.112 The following exception applies to single-piece rate third-class mail: When the postage rate computed at the single-piece third-class rate is higher than the rate prescribed in the corresponding fourth-class category for which the piece qualifies, the applicable lower fourth-class rate will be charged.

.12 BULK RATES[1]

(See 134.222 and 134.42.)

	Special rates for authorized organizations only (see 134.3)	Regular rates
.121 Books and catalogs having 24 or more bound pages with at least 22 printed, seeds, cuttings, bulbs, roots, scions, and plants (see 134.31 for weight limit).	11¢ per pound or fraction.	30¢ per pound or fraction.
Minimum rate per piece:		
First 250,000 pieces mailed during each calendar year.	2.1¢	7.5¢
Pieces in excess of 250,000 mailed during each calendar year (see 134.124).	2.1¢	7.7¢
.122 All matter, except the items in 134.121, not included in the first- or second-class (see 134.31 for weight limit).	14¢ per pound or fraction.	36¢ per pound or fraction.
Minimum rate per piece:		
First 250,000 pieces mailed during each calendar year.	2.1¢	7.5¢
Pieces in excess of 250,000 mailed during each calendar year (see 134.124).	2.1¢	7.7¢

[1] The annual bulk mailing fee is $40

.123 If the total postage computed at the pound rates does not amount to the minimum rate per piece or more, postage must be computed at the minimum charge per piece. (See 134.222a.)

.124 When mailings are made at the minimum per piece rates of 7.5¢ provided by 134.121 and 134.122, the mailer or his agent must show on each Form 3602, *Statement of Mailing Matter with Permit Imprints*, or Form 3602-PC, *Bulk Rate Mailing Statement—Third-Class Mail*, that his total mailings, including all those made at bulk pound rates and at minimum per

piece rates, at all post offices, under any name, for each current calendar year, have not exceeded 250,000 pieces. It is the responsibility of the mailer or his agent to make available upon request of postal officials whatever information is necessary to show the payment of correct minimum per piece rates on all mailings made during each calendar year. Postmasters must regularly review the records of mailings being made at the bulk third-class pound and piece rates for the purpose of determining from the identity of the mailer, the number of pieces mailed, the character of the mailing pieces, or any other facts, whether the correct minimum per piece rate is being paid. If any postmaster is in doubt as to whether the 250,000 limitation has been exceeded in a particular case, he shall submit all the facts to the Office of Mail Classification, Rates and Classification Department.

.125 The weight at which the pound bulk rates cease to apply for third-class bulk mail is found by multiplying the applicable piece rate by 16 and dividing the product by the corresponding pound rate. The result expresses this weight limit in ounces and decimal fractions of ounces. Pieces at or below this weight are subject to the applicable minimum per piece rate. The calculation should be carried to 5 decimal points.

.13 KEYS, IDENTIFICATION CARDS, IDENTIFICATION TAGS, OR SIMILAR IDENTIFICATION DEVICES

Keys, identification cards, identification tags, or similar identification devices that are without cover and that bear, contain, or have securely attached the name and complete post office address of a person, organization, or concern with instructions to return to such address and a statement guaranteeing the payment of the postage due on delivery: 19 cents for the first 2 ounces, 14 cents for each additional 2 ounces or fraction thereof.

134.2 CLASSIFICATION

.21 DEFINITION

.211 Third-class mail consists of mailable matter which is—

a. not mailed or required to be mailed as first-class mail;
b. not entered as second-class mail; and
c. less than 16 ounces in weight.

.212 Circulars, including printed letters which according to internal evidence are being sent in identical terms to several persons, are third-class mail. A circular does not lose its character as such when the date and name of the addressee and of the sender are written therein, nor by the correction in writing of mere typographical errors.

.213 Printed matter within the limit of weight is third-class mail. For the purpose of this section, printed matter is paper on which words, letters, characters, figures or images, or any combination thereof, not having the character of actual or personal correspondence, have been reproduced by any process other than handwriting or typewriting.

.22 APPLICATION OF RATES

.221 *Single Rate*

The single rate is applied to each piece according to its weight.

.222 *Bulk Rate*

a. The bulk rate is applied to mailings of identical pieces separately addressed to different addressees in quantities of not less than 50 pounds or of not less than 200 pieces. All the pieces in a bulk mailing must be identical as

to size and weight, but the printed textual matter need not be identical. Postage is computed at pound rates on the entire bulk mailed at one time, except that in no case shall less than the minimum charge per piece be paid. The annual bulk mailing fee must be paid at or before the first mailing each calendar year. (See 134.4 for other conditions governing acceptance of bulk mailings.)

b. It is recommended that mailers merge and presort all third-class matter presented for mailing during a day or part of a day when the pieces are identical as to size and weight and when they are addressed from one list or from more than one list. A variance in the text, the use or nonuse of adhesive address labels, or the use of several lists with different key numbers does not preclude the mailer from merging the mailings and presorting them.

.223 *Other Third-Class Rates*

The rate for keys and identification items placed loose in the mail under the conditions in 134.13 is applied to each item according to its weight. When there are several items for the same addressee the office of mailing will place them in an envelope or wrapper addressed to the intended recipient and marked to show the amount of postage due. The amount of postage will be computed on each item and not on the bulk weight of the mailing piece.

.224 *Nonstandard Surcharge*

There is currently no surcharge for nonstandard mail as defined in 134.33. However, it is anticipated that such a surcharge will be imposed sometime in calendar year 1978.

.23 CONTESTED CLASSIFICATION See 146.141.

134.3 WEIGHT AND SIZE LIMITATIONS

.31 WEIGHT

Each piece may weigh up to but not including 16 ounces.

.32 SIZE, SHAPE, AND RATIO

There is no maximum limit of size. The following standards apply to envelopes, cards, and self-mailers having postage paid thereon at the third-class rates:

a. Pieces less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Pieces having shapes other than rectangular are nonmailable.
c. Pieces having a ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 are recommended.
d. Cards having a thickness of less than 0.006 of an inch are nonmailable.

.33 NONSTANDARD THIRD-CLASS MAIL

.331 Third-class single piece rate mail weighing 2 ounces or less is nonstandard unless it meets the following size standards:

a. Length not greater than 11.5 inches; and
b. Height not greater than 6.125 inches; and
c. Thickness not greater than .25 inch; and
d. An aspect ratio (ratio of height to length) between 1:1.3 and 1:2.5 inclusive.

.332 Nonstandard mail often results in delays or damage to other mail because it does not lend itself to machine processing. For this reason mailers are encouraged to avoid mailing nonstandard third-class mail.

.333 It is anticipated that a surcharge will be imposed sometime in calendar year 1978.

134.4 PREPARATION—PAYMENT OF POSTAGE

.41 SINGLE-PIECE MAILINGS

Mailers of third-class mail at other than bulk rates may use any method of paying postage, and may mail any number of pieces at one time, except when permit imprints are used (see 145.5). See 134.82 for marking required on sealed pieces.

.42 BULK MAILINGS

.421 *Annual Fee*

A fee of $40 must be paid once each calendar year by or for any person who mails at the bulk third-class rates. Any person who engages a business concern or another individual to mail for him must pay the $40 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1). An alphabetical record of customers who have paid the $40 fee must be kept at the weighing section or any other place where bulk mailings are accepted and cleared. The record must show whether the mailer has been authorized to mail as one of the organizations or associations named in 134.5.

.422 *Postage Permits Required*

Postage must be prepaid by (see part 146):

a. Meter stamps. See part 144.
b. Precanceled stamps or precanceled stamped envelopes. See part 143.
c. Permit imprints (cash). See part 145.

.423 *Markings Required*

Identifying words as follows must be printed or rubber stamped by the mailer either in or immediately adjacent to permit imprints, meter stamps, or precanceled stamps:

a. *Bulk Rate* or the abbreviation *Blk. Rt.* by mailers other than nonprofit organizations.
b. *Nonprofit Organization* or the abbreviation *Nonprofit Org.* by authorized nonprofit organizations. (See 134.5).

.424 *Mailing Statement and Verification*

The mailer must complete and submit a mailing statement with each mailing as follows:

a. Form 3602, *Statement of Mailing Matter with Permit Imprints*, for mail with permit imprints (see 145.5); or
b. Form 3602–PC, *Statement of Mailing Bulk Rates*, for mail bearing precanceled stamps or meter stamps.

A designated employee in the weighing section or place where bulk mailings are accepted must verify the class of mail, verify that it is properly made up, and verify that the information contained on the mailing statement, including whether the average weight per piece is accurate, whether the minimum per piece charge or the pound rate is applicable, and whether the postage chargeable per piece or per pound is accurate.

provement associations; individuals; mutual insurance associations; political organizations; service clubs such as Civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; and trade association. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county, or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic), since their income is gnerally not derived primarily from voluntary contributions or donations.

.54 APPLICATION

.541 *Filing*

Application on Form 3624, *Application to Mail at Special Bulk Third-Class Rates for Qualified Nonprofit Organizations or Associations*, must be filed by the organization or association at the post office where mailings will be deposited. The application must include evidence that the organization is nonprofit, and, if available, a certificate of exemption from Federal income tax should accompany the application. An exemption from the payment of Federal income tax is not required in order to qualify for the special third-class bulk rates. Such exemption will be considered as evidence of qualification for preferred Postal rates but will not be controlling in the matter. When an organization submits proof that it has been granted income tax exemption under Title 26, United States Code, section 501(c)(3), as a religious, educational, scientific, or charitable (philanthropic) organization; under section 501(c)(5) as an agricultural or labor organization; under section 501(c)(8) as a fraternal organization; or under section 501(c)(19) as a veterans' organization, it will be considered as qualifying for the special third-class rates unless the available evidence discloses some disqualification.

.542 *Approval or Denial*

The application Form 3624 together with any supporting papers will be sent to the postal services center. (Pending a decision, bulk mailings subject to the minimum per piece charge may be handled in accordance with 134.55.) The postmaster at the postal services center will approve or deny the application. The application Form 3624 and any supporting papers will be returned with the decision to the postmaster where the application was filed for notification of the applicant. Before taking action on an application or appeal, additional information or evidence may be requested to support or clarify the application. Failure of an organization to furnish the information is sufficient reason to deny an application or revoke existing authorization.

.543 *Appeal*

The decision of the postmaster at the postal services center may be appealed by the applicant, in writing to the postmaster where the application was filed. The postmaster will forward the appeal to the postal services center. If, after a review of the file, the postmaster at the postal services center is still of the opinion that the organization does not qualify, he shall furnish a statement of the reasons for his denial action to the Rates & Classification Department, Domestic Mail Classification Division. The complete file, including the original application and all supporting papers, should be submitted. The papers will be returned to the postmaster at the postal services center with the final decision on the appeal by the General Manager, Domestic Mail Classification Division.

.55 TEMPORARY MAILINGS

Until final action is taken on the application, postage paid on the mailings may be at the special rates, provided the mailer deposits with the postmaster

an amount sufficient to cover the additional postage at the higher rates. (See 134.121 and 134.122). This deposit will be returned to the mailer if the application is approved. If the application is denied, the deposit will not be returned. The deposit will be converted into postage-due stamps which will be canceled and given to the mailer if no appeal is made. If appeal is made, action concerning the deposit will be deferred.

.56 REVOCATION

.561 The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster who approved the application will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 15 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will revoke the authorization. If an appeal is filed, a decision on the continuance of the authorization will be made by the General Manager, Domestic Mail Classification Division. Notice of the decision will be given to the organization through the postmaster.

.562 A review of any organization authorized to mail at the special third-class rates may be initiated or undertaken at any time by the General Manager, Domestic Mail Classification Division. If the General Manager, after a review, determines that an organization is no longer qualified, he will notify the organization through the postmaster, of the proposed revocation of the authorization and the reasons for the revocation. The revocation becomes effective 15 days from receipt of the notice unless the organization files a written appeal, with the Director, Office of Mail Classification, who will issue the final agency decision.

.57 WHAT MAY BE MAILED AT THE SPECIAL BULK THIRD-CLASS RATES FOR QUALIFIED NONPROFIT ORGANIZATIONS

An organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special third-class rates to any other person, organization or association. Cooperative mailings may not be made at the special bulk third-class rates for qualified nonprofit organizations if one or more of the cooperating persons or organizations is not entitled itself to the special rates. Cooperative mailings involving the mailing of matter in behalf of or produced for an organization not authorized to mail at the special bulk third-class rates for qualified nonprofit organizations must be paid at the applicable regular rate. If customers disagree with a postmaster's decision that the regular rate of postage applies to a particular mailing, the procedures in 146.14 may be followed.

134.6 PERMISSIBLE ADDITIONS

The additions authorized for fourth-class mail in 135.52 are permissible with matter mailed at third-class rates of postage.

134.7 ENCLOSURES

.71 BOOKS AND CATALOGS MAILED AT BULK RATES PROVIDED BY 134.121

External attachments are not permitted. The covers of a catalog or book for postal purposes are the outermost bound sheets. Only the following specifically named items may be enclosed loose provided they relate exclusively to the book or catalog they accompany:

a. A single reply envelope or reply post card, or both.
b. A single order form.
c. A printed circular. Circulars fastened securely along the entire bound edge inside the book or catalog by paste, stitches, or staples are not loose enclosures.
d. If no circular is enclosed, a printed price list listing only articles featured in the catalog and showing only the same prices and discounts as the catalog.
e. An invoice. (See 135.522).
f. Samples of merchandise attached to pages.

.72 ALL OTHER THIRD-CLASS MATTER

The following are permissible enclosures:

a. An invoice (see 135.522).
b. Manuscripts accompanying related proof sheets (see 135.521f(2)).

134.8 SEALING

.81 EXAMINATION

Third-class mail must be prepared by the mailer so that it can be easily examined. Third-class mail which is not sealed or secured so that it may be handled by machines is not recommended. Mailing of sealed articles at the third-class rates of postage is considered consent by the mailer to postal inspection of the contents.

.82 MARKING

Each sealed piece mailed at the single piece third-class postage rate provided for by 134.11 must be legibly marked on the address side, preferably below the postage and above the name of the addressee, with the two words *Third Class*. The marking may be included as a part of a permit imprint, and it may be printed adjacent to the meter stamp by a postage meter. The marking will not be considered adequate if it is included as a part of a decorative design or advertisement. Only the markings required by 134.423 need be carried on sealed pieces mailed at the bulk third-class postage rates provided for by 134.12.

Part 135
FOURTH CLASS

135.1 RATES

.11 FOURTH-CLASS (PARCEL POST) ZONE RATES

.111 *Single Piece Zone Rates*

Weight-1 pound and not exceeding (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
2	$0.77	$0.90	$0.93	$1.04	$1.15	$1.28	$1.45	$1.48
3	.82	.97	1.02	1.15	1.29	1.45	1.62	1.74
4	.86	1.04	1.10	1.25	1.42	1.63	1.84	2.00
5	.91	1.11	1.19	1.36	1.56	1.81	2.06	2.26
6	.95	1.18	1.27	1.45	1.69	1.98	2.28	2.52
7	1.00	1.25	1.36	1.57	1.83	2.16	2.50	2.78
8	1.04	1.32	1.44	1.67	1.96	2.33	2.72	3.04
9	1.09	1.39	1.52	1.78	2.10	2.51	2.94	3.30
10	1.13	1.46	1.61	1.88	2.23	2.68	3.16	3.56
11	1.18	1.53	1.70	1.99	2.37	2.86	3.38	3.82
12	1.22	1.60	1.78	2.09	2.50	3.03	3.60	4.08
13	1.27	1.67	1.87	2.20	2.64	3.21	3.82	4.34
14	1.31	1.74	1.96	2.30	2.77	3.38	4.04	4.60
15	1.36	1.81	2.04	2.41	2.91	3.55	4.26	4.86
16	1.40	1.88	2.12	2.51	3.04	3.73	4.48	5.12
17	1.45	1.95	2.21	2.62	3.18	3.91	4.70	5.38
18	1.49	2.02	2.29	2.72	3.31	4.08	4.92	5.64
19	1.54	2.09	2.38	2.83	3.45	4.26	5.14	5.90
20	1.58	2.16	2.46	2.93	3.58	4.43	5.36	6.16
21	1.62	2.22	2.55	3.04	3.72	4.61	5.58	6.42
22	1.67	2.30	2.62	3.14	3.85	4.78	5.80	6.68
23	1.72	2.37	2.72	3.25	3.99	4.96	6.02	6.94
24	1.76	2.44	2.80	3.35	4.12	5.13	6.24	7.20
25	1.81	2.51	2.89	3.46	4.26	5.31	6.46	7.46
26	1.85	2.58	2.97	3.56	4.39	5.48	6.68	7.72
27	1.90	2.65	3.06	3.67	4.53	5.66	6.90	7.98
28	1.94	2.72	3.14	3.77	4.66	5.83	7.12	8.24
29	1.99	2.79	3.23	3.88	4.80	6.01	7.34	8.50
30	2.03	2.86	3.31	3.98	4.93	6.18	7.56	8.76
31	2.08	2.93	3.40	4.09	5.07	6.36	7.78	9.02
32	2.12	3.00	3.48	4.19	5.20	6.53	8.00	9.28
33	2.17	3.07	3.57	4.30	5.34	6.71	8.22	9.54
34	2.21	3.14	3.65	4.40	5.47	6.88	8.44	9.80
35	2.26	3.21	3.74	4.51	5.61	7.06	8.66	10.06
36	2.30	3.28	3.82	4.61	5.74	7.23	8.88	10.32
37	2.35	3.35	3.91	4.72	5.88	7.41	9.10	10.58
38	2.39	3.42	3.99	4.82	6.01	7.58	9.32	10.84
39	2.44	3.49	4.08	4.93	6.15	7.76	9.54	11.10
40	2.48	3.56	4.16	5.03	6.28	7.93	9.76	11.36
41	2.53	3.63	4.25	5.14	6.42	8.11	9.98	11.62
42	2.57	3.70	4.33	5.24	6.55	8.28	10.20	11.88
43	2.62	3.77	4.42	5.35	6.69	8.46	10.42	12.14
44	2.66	3.84	4.50	5.45	6.82	8.63	10.64	12.40
45	2.71	3.91	4.59	5.56	6.96	8.81	10.86	12.66
46	2.75	3.98	4.67	5.66	7.09	8.98	11.08	12.92
47	2.80	4.05	4.76	5.77	7.23	9.16	11.30	13.18
48	2.84	4.12	4.84	5.87	7.36	9.33	11.52	13.44
49	2.89	4.19	4.93	5.98	7.50	9.51	11.74	13.70
50	2.93	4.26	5.01	6.08	7.63	9.68	11.96	13.96
51	2.96	4.33	5.10	6.19	7.77	9.86	12.18	14.22
52	3.02	4.40	5.18	6.29	7.90	10.03	12.40	14.48
53	3.07	4.47	5.27	6.40	8.04	10.21	12.62	14.74
54	3.11	4.54	5.35	6.50	8.17	10.38	12.84	15.00
55	3.16	4.61	5.44	6.61	8.31	10.56	13.06	15.26

.122 *Bulk Rates for Bulk Mailings of Separately Addressed Identical Pieces in Quantities of Not Less Than 300 Mailed at One Time*

Zones	Piece rate	Bulk pound rate	Zones	Piece rate	Bulk pound rate
	(cents)	(cents)		(cents)	(cents)
Local	20	2.6	5	21	7.8
1 and 2	21	4.4	6	21	9.6
3	21	5.2	7	21	11.6
4	21	6.4	8	22	13.9

NOTE: The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.

.13 SPECIAL FOURTH-CLASS RATE

.131 *Rates*

Kind of mail (Rate restricted to items specifically named)	Rate (without regard to zone)		
	First pound or fraction of a pound	Each additional pound or fraction through 7 pounds	Each additional pound or fraction over 7 pounds
Books; 16-millimeter or narrower width films and catalogs of such films (rate applies for films and catalogs except when mailed to or from commercial theaters); printed music, printed objective test materials, sound recordings playscripts and manuscripts for books, periodicals and music; printed educational reference charts permanently processed for preservation; looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. (See 135.214)			
Single piece rate, presort rates	30¢	11¢	8¢
Presort rates:			
Level A	[1] 27.9¢	11¢	8¢
Level B	[2] 28.4¢	11¢	8¢

[1] Mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes. (See 135.25)

[2] Mailings of 2,000 or more pieces properly prepared and presorted to five-digit and three-digit destination ZIP Codes. (See 135.25)

.132 *Annual Fee*

A $30 fourth-class presort mailing fee must be paid once each calendar year at each office of mailing by or for any person who mails at the presorted special fourth-class rates.

Weight-1 pound and not exceeding (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
56	3.20	4.68	5.82	6.71	8.44	10.72	13.25	15.52
57	3.25	4.73	5.83	6.82	8.58	10.91	13.50	15.74
58	3.29	4.82	5.89	6.92	8.71	11.09	13.72	16.04
59	3.34	4.89	5.78	7.03	8.85	11.26	13.94	16.30
60	3.38	4.96	5.86	7.13	8.98	11.43	14.16	16.56
61	3.43	5.03	5.98	7.24	9.12	11.61	14.38	16.82
62	3.47	5.10	6.03	7.34	9.25	11.78	14.60	17.08
63	3.52	5.17	6.12	7.45	9.39	11.96	14.82	17.34
64	3.56	5.24	6.20	7.55	9.52	12.13	15.04	17.60
65	3.61	5.31	6.29	7.66	9.66	12.31	15.26	17.86
66	3.65	5.38	6.37	7.76	9.79	12.48	15.48	18.12
67	3.70	5.45	6.46	7.87	9.93	12.66	15.70	18.38
68	3.74	5.52	6.54	7.97	13.06	12.83	15.92	18.64
69	3.79	5.59	6.63	8.08	10.20	13.01	16.14	18.90
70	3.83	5.66	6.71	8.18	10.32	13.18	16.36	19.16

Exception:

Parcels weighing less than 15 pounds, and measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15 pound parcel for the zone to which addressed. See 135.3 for size and weight restrictions.

.112 *Bulk Zone Rates (Parcel Post)*

a. Mailings of 300 or more pieces of identical weight may be mailed at bulk zone rates if separated by postal zones. Mailings of pieces of nonidentical weight may only be made at bulk zone rates when authorized by the Office of Mail Classification in accordance with 145.8 or 145.9.

b. The rate of postage to be paid on each piece of a bulk zone rate mailing shall be the single piece rate for that zone for an item equal to the average weight per piece for parcels going to that zone, rounded up to the next highest whole pound.

.12 BOUND PRINTED MATTER RATES

.121 *Single Piece Zone Rate*

Pieces weighing up to—(pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	$0.52	$0.62	$0.64	$0.67	$0.70	$0.73	$0.75	$0.84
2	.52	.63	.67	.71	.75	.79	.85	.98
2.5	.55	.68	.70	.75	.81	.86	.93	1.02
3	.57	.71	.74	.79	.86	.93	1.01	1.11
3.5	.59	.74	.78	.84	.91	.99	1.09	1.20
4	.61	.77	.81	.88	.96	1.05	1.17	1.31
4.5	.62	.79	.84	.93	1.01	1.11	1.25	1.40
5	.64	.82	.87	.96	1.06	1.17	1.32	1.49
6	.68	.88	.94	1.05	1.18	1.31	1.47	1.67
7	.71	.94	1.00	1.13	1.26	1.44	1.63	1.85
8	.75	1.00	1.07	1.20	1.37	1.57	1.78	2.04
9	.79	1.06	1.14	1.29	1.47	1.69	1.94	2.23
10	.82	1.11	1.20	1.38	1.58	1.81	2.10	2.43

.14 LIBRARY RATE

Kind of mail (Rate restricted to items specifically named mailed by or to organizations mentioned in 135.261)	Rate (Without regard to zone)	
	First pound or fraction of a pound	Each additional pound or fraction
Books; printed music; bound volumes of academic theses; sound recordings; periodicals; other library materials; museum and herbarium materials; 16-millimeter or narrower width films, filmstrips, transparencies, slides, microfilms; scientific or mathematical kits, instruments, or other devices; also, catalogs, guides or scripts for some of these materials. See 135.261	11¢	4¢

.15 APPLICATION OF RATES

.151 The rates in 135.11 and 135.12 are applied on the basis of weight of the individual piece and the distance the mail is sent. To administer these rates, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones and shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP Coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP Coded post offices, but this shall not cause two post offices to be regarded as within the same local zone. The postal zones are defined as follows:

a. The local zone, the extent of which is defined by the Postal Service. This local rate currently applies to parcels mailed at any post office for local delivery at that office; at any city letter-carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.
b. The first zone includes all territory within the quadrangle in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately fifty miles from the center of a given unit of area. The zone one rate applies to parcels mailed between two post offices in the same sectional center.
c. The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately one hundred and fifty miles from the center of a given unit of area.
d. The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately three hundred miles from the center of a given unit of area.
e. The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately six hundred miles from the center of a given unit of area.
f. The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately one thousand miles from the center of a given unit of area.

g. The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately one thousand four hundred miles from the center of a given unit of area.
h. The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately one thousand eight hundred miles from the center of a given unit of area.
i. The eighth zone includes all units of area outside the seventh zone.

.152 Rates according to zone apply for zone-rated mail sent between Postal Service facilities, including armed forces post offices, wherever located, except the rates of postage for zone-rated mail transported between the United States, the Canal Zone, Puerto Rico or the possessions or territories of the United States, including the Trust Territory of the Pacific Islands, on the one hand, and Military post offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Military post office concerned, subject to the following exception: The rate of postage for zone-rated mail which is mailed at or addressed to a Military post office and which is transported directly to or from Military post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate. If such mail transits any area served by the United States Postal Service at the expense of United States Postal Service and the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word *transiting* does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

Examples:

a. A parcel mailed at Honolulu, Hawaii, for direct dispatch by the Department of Defense from Honolulu to a military post office in the Pacific will be subject to the local zone rate.
b. A paracel mailed at Hilo, Hawaii, and transported at the expense of the United States Postal Service to Honolulu, Hawaii, for direct dispatch at the expense of the Department of Defense from Honolulu to a Military post office in Japan will be subject to zone 2 rates.

.153 An official zone chart may be obtained free by request to the postmaster at the office of mailing. For ZIP Code numbers, consult the *National ZIP Code Directory*, Publication 65.

.154 The rates in 135.13 and 135.14 are computed on the basis of the weight of the piece regardless of the zone to which addressed.

.155 The single piece rates and conditions are applicable to forwarding and returning of parcels mailed at bulk rates.

135.2 CLASSIFICATION

.21 FOURTH-CLASS MAIL

Fourth-class mail consists of mailable matter:

a. Not mailed or required to be mailed as first-class mail;
b. Weighing sixteen ounces or more; and
c. Not entered as second-class mail (except as specifically provided for transient rate matter).

.22 FOURTH-CLASS BULK ZONE RATES

.221 The bulk fourth-class zone rates in 135.112 are applied to mailings of 300 or more pieces of fourth-class mail of identical weight. Parcels need not be of identical size or content. Parcels which weigh less than 15 pounds and measure over 84 inches in length and girth combined may not be mailed at these rates.

.222 Mailings of nonidentical pieces may only be made if the mailer has demonstrated that adequate records are maintained to verify and audit such mailings and if the procedure has been specifically authorized by the Director, Office of Mail Classification, in accordance with 145.8 or 145.9.

.223 *Separation.* The mailer must separate mailing pieces by parcel post zones so that postage may be verified. This requirement may be waived by the Postal Service if the mailer demonstrates to the satisfaction of the Postal Service that records are maintained to enable the Postal Service to accurately verify and audit mailings of fourth-class bulk rate parcels. The Director, Office of Mail Classification, must specifically approve systems for the acceptance of such mailings.

.224 *Special services.* The insurance, special delivery, special handling, and COD services may be used on mailings sent at bulk fourth-class zone rates. However, special services may not be used selectively for individual parcels mailed at these rates. Selective special services may be used in conjunction with postage payment verification systems approved under the conditions stated in 135.222.

.225 *Markings Required.* The words *Fourth-Class Bulk Rates* or *Fourth-Class Blk. Rt.* must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit imprint.

.257 *Container or Pallet Labeling Requirements*

a. Five-Digit Destination

CLEVELAND OH 44101
5-DIGIT PRESORTED PP
FR J COMPANY, BOSTON MA

b. City With Unique 3-digit ZIP Code

CLEVELAND OH 441
MACHINE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINE PRESORTED PP
FR J COMPANY BOSTON MA

c. Sectional Center

CLEVELAND OH 441
MACHINE PRESORTED PP
FR J COMPANY BOSTON MA

or

CLEVELAND OH 441
NONMACHINE PRESORTED PP
FR J COMPANY BOSTON MA

.258 **Bulk Mail Center Machinability Criteria for Special Fourth-Class Matter**

a. The parcel sorter machinability criteria are:
   (1) Weight: At least 1 pound but not over 25 pounds
   (2) Length: At least 6 inches but not over 34 inches
   (3) Height: At least 3/8 inches but not over 17 inches
   (4) Width: At least 3* inches but not over 17 inches
   *A width of 4 inches is required for parcels less than 9 inches long.
b. Mailing pieces that fall below the minimum dimensions specified in a. are considered SPR's.
c. Those exceeding the maximum dimensions or irregular in shape are considered non-machineable parcels.
d. Mailers who are not sure of the size classification of their pieces are advised to consult with their local postmaster.

.259 *Presort Verification*

For each 50 sacks or fraction thereof in a mailing, accepting post offices shall verify the presort as follows:

a. Select two sacks of 5-digit makeup and verify that no pieces are included bearing other than the 5-digit ZIP Code shown on the sack label. If a discrepancy of more than one piece is found, the mailing is disqualified.
b. For mailings that include sacks of mail presorted to 3-digit ZIP Code destination, select three sacks and verify that all pieces in a sack bear ZIP Codes having the same first three digits of ZIP Code as that shown on the sack label and that no identical 5-digit ZIP Codes are contained in quantities sufficient to make up a full or a substantially full sack, as appropriate for the presort rate level, for mail addressed to the same 5-digit ZIP Code destination. If it is found that one 5-digit sack could have been made up separately from the pieces in a 3-digit sack, the mailing is disqualified. If more than two pieces are found in any sack made up to the same 3-digit ZIP Code destination that bear a different first three digits of ZIP Code, the mail is disqualified.
c. If a mailing is disqualified, the next mailing by the customer at presort rates should have twice the number of sacks verified as specified in a. and b., and such intensified verification shall be extended to one-fifth of the customer's mailings during the following six-month period.

.26 FOURTH-CLASS LIBRARY RATE

Only the articles specifically described in this section may be mailed at the fourth-class library rate provided by 135.14. The identification statement *Library Rate* must be placed conspicuously on the address side of each package. Each package must show in the address or return address the name of a school, college, university, public library, or name of a nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association. No permit is required.

a. The following specific items when loaned or exchanged between schools, colleges, or universities and public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations; or when cooperatively processed by libraries; or loaned or exchanged between libraries, organizations, or associations, and their members, readers, or borrowers, may be mailed at the library rate:
   (1) Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books.
   (2) Printed music, whether in bound form or in sheet form.
   (3) Bound volumes of academic theses in typewritten or duplicated form.
   (4) Periodicals, whether bound or unbound.
   (5) Sound recordings. [See also 135.26b(2).]
   (6) Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.
   (7) Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.

b. The following specific items when sent to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations, may be mailed at the library rate:
   (1) 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing.
   (2) Sound recordings.
   (3) Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria.
   (4) Scientific or mathematical kits, instruments, or other devices.
   (5) Catalogs of the materials in 135.26b(1) - (4) and guides or scripts prepared solely for use with such materials.

c. Books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books, when mailed from a publisher or a distributor to a school, college, university, or library, may be mailed at the library rate.

d. When 5,000 or more identical pieces are mailed at the rates in 135.14 during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions contained in 134.432, and 134.436a(2), b(2), c(2), d(2), and e(2). When 1,000 or more but less than 5,000 identical pieces are mailed at these rates during a single day and there are enough pieces for the same destination to fill approximately one-third of a sack, they must be presorted and placed in sacks under the instructions in 134.432, and 134.436b(2), c(2), d(2), and e(2).

.27 CONTESTED CLASSIFICATION

See 146.141.

.543 *All Other Items Listed in 135.214 and 135.215*

Enclosures are not permitted except as provided in 135.522, and 139.3.

135.6 SEALING

Fourth-class mail must be wrapped or packaged so that it can be easily examined. Mailing of sealed parcels at the fourth-class rates of postage is considered consent by the sender to postal inspection of the contents. To assure that their parcels will not be opened for postal inspection, customers should, in addition to paying the first-class rate of postage, plainly mark their parcels *First Class* or with similar endorsements.

135.7 ADDRESSING

The address of all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special rate fourth-class rates must contain a complete ZIP Code.

135.8 PLACE OF MAILING

.81 Articles mailed at single piece fourth-class rates may be mailed at a post office, branch, or station, or handed to a rural or star route carrier.

.82 Mailing at bulk or presort rates must be made at a station or branch specified by the postmaster.

.83 Parcels exceeding the limits of size and weight for articles mailed at post offices with 950 or more revenue units that originate in and are prepared in cities or towns served by such post offices may not be diverted to other post offices or to a rural or star route carrier for mailing.

Part 136

PRIORITY MAIL

136.1 RATES

Weight over 13-ounces and not exceeding—pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$1.56	$1.58	$1.60	$1.62	$1.64	$1.67
1.5	1.72	1.77	1.84	1.90	1.97	2.07
2.0	1.89	1.96	2.07	2.18	2.29	2.46
2.5	2.05	2.15	2.29	2.42	2.59	2.78
3.0	2.21	2.33	2.50	2.66	2.88	3.09
3.5	2.37	2.51	2.70	2.91	3.13	3.38
4.0	2.53	2.69	2.90	3.14	3.41	3.67
4.5	2.68	2.86	3.09	3.35	3.65	3.94
5.0	2.83	3.03	3.27	3.56	3.88	4.20
6	3.13	3.37	3.64	3.98	4.35	4.72
7	3.43	3.71	4.01	4.40	4.82	5.24
8	3.73	4.05	4.38	4.82	5.29	5.76
9	4.03	4.39	4.75	5.24	5.76	6.28
10	4.33	4.73	5.12	5.66	6.23	6.80
11	4.62	5.07	5.49	6.08	6.70	7.32
12	4.93	5.41	5.86	6.50	7.17	7.84
13	5.23	5.75	6.23	6.92	7.64	8.36
14	5.53	6.09	6.60	7.34	8.11	8.88
15	5.83	6.43	6.97	7.76	8.58	9.40
16	6.13	6.77	7.34	8.18	9.05	9.92
17	6.43	7.11	7.71	8.60	9.52	10.44
18	6.73	7.45	8.08	9.02	9.99	10.96
19	7.03	7.79	8.45	9.44	10.46	11.48
20	7.33	8.13	8.82	9.86	10.93	12.00
21	7.63	8.47	9.19	10.28	11.40	12.52
22	7.93	8.81	9.56	10.70	11.87	13.04
23	8.23	9.15	9.93	11.12	12.34	13.56
24	8.53	9.49	10.30	11.54	12.81	14.08
25	8.83	9.83	10.67	11.96	13.28	14.60
26	$9.13	$10.17	$11.04	$12.38	$13.75	$15.12
27	9.43	10.51	11.41	12.80	14.22	15.64
28	9.73	10.85	11.78	13.22	14.69	16.16
29	10.03	11.19	12.15	13.64	15.16	16.68
30	10.33	11.53	12.52	14.06	15.63	17.20
31	10.63	11.87	12.89	14.48	16.10	17.72
32	10.93	12.21	13.26	14.90	16.57	18.24
33	11.23	12.55	13.63	15.32	17.04	18.76
34	11.53	12.89	14.00	15.74	17.51	19.28
35	11.83	13.23	14.37	16.16	17.98	19.80
36	12.13	13.57	14.74	16.58	18.45	20.32
37	12.43	13.91	15.11	17.00	18.92	20.84
38	12.73	14.25	15.48	17.42	19.39	21.36
39	13.03	14.59	15.85	17.84	19.86	21.88
40	13.33	14.93	16.22	18.26	20.33	22.40
41	13.63	15.27	16.59	18.68	20.80	22.92
42	13.93	15.61	16.96	19.10	21.27	23.44
43	14.23	15.95	17.33	19.52	21.74	23.96
44	14.53	16.29	17.70	19.94	22.21	24.48
45	14.83	16.63	18.07	20.36	22.68	25.00
46	15.13	16.97	18.44	20.78	23.15	25.52
47	15.43	17.31	18.81	21.20	23.62	26.04
48	15.73	17.65	19.18	21.62	24.09	26.56
49	16.03	17.99	19.55	22.04	24.56	27.08
50	16.33	18.33	19.92	22.46	25.03	27.60

136.1 RATES (Cont'd)

Weight over 13 ounces and not exceeding—pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
51	16.63	18.67	20.29	22.88	25.50	28.12
52	16.93	19.01	20.96	23.30	25.97	28.64
53	17.23	19.35	21.63	23.72	26.44	29.16
54	17.53	19.69	21.40	24.14	26.91	29.68
55	17.83	20.03	21.77	24.56	27.38	30.20
56	18.13	20.37	22.14	24.98	27.85	30.72
57	18.43	20.71	22.51	25.40	28.32	31.24
58	18.73	21.05	22.88	25.82	28.79	31.76
59	19.03	21.39	23.25	26.24	29.26	32.28
60	19.33	21.73	23.62	26.66	29.73	32.80
61	19.63	22.07	23.99	27.08	30.20	33.32
62	19.93	22.41	24.36	27.50	30.67	33.84
63	20.23	22.75	24.73	27.92	31.14	34.36
64	20.53	23.09	25.10	28.34	31.61	34.88
65	20.83	23.43	25.47	28.76	32.08	35.40
66	21.13	23.77	25.84	29.18	32.55	35.92
67	21.43	24.11	26.21	29.60	33.02	36.44
68	21.73	24.45	26.58	30.02	33.49	36.96
69	22.03	24.79	26.95	30.44	33.96	37.48
70	22.33	25.13	27.32	30.86	34.43	38.00

EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

136.2 CLASSIFICATION

.21 DESCRIPTION

Priority mail consists of firstclass mail weighing more than 13 ounces and other mail which is mailed for expeditious handling and transportation

.22 ACCEPTABLE ARTICLES, EXCEPTIONS

.221 Generally, matter acceptable in domestic surface mail may be transported by aircraft except:

a. Anything susceptible to damage or which may become harmful because of changes in temperature or atmospheric pressures unless protected against the effects of such changes;
b. Magnetic material having a field strength sufficient to cause a compass deviation at a distance of 15 feet (4.6 meters) or more from any point on the package;
c. Flammable liquids and solids;
d. Radioactive matter;
e. Matter specifically excluded from air shipment by the regulations of the Department of Transportation, 49 CFR, Parts 100-189; Federal Aviation Agency, 14 CFR, Part 103; or the applicable restricted articles tariffs of the air carriers.

.222 Certain restricted articles as described in 49 CFR, Parts 100-189; 14 CFR, Part 103; and the restricted articles tariffs of the air carriers may be accepted for air transportation if they are properly packaged. Such articles must be labeled and bear a shipper's certification in triplicate as required by 14 CFR, Part 103, Federal Aviation Regulations, or must be marked in the manner prescribed by the air transport restricted articles tariff, e.g., *ORA Group A—DRY ICE.*

.223 Mailers are reminded that first-class mail is now regularly carried by air. Therefore, all merchandise sent by first-class mail is governed by these regulations.

.23 APPLICATION OF RATES

.231 Priority mail articles addressed to military post offices overseas (Army, Air Force, and Fleet post offices, and Naval vessels) require postage at the priority mail zone rate applicable between the mailing post office and the post office shown in the address, except as provided in section 135.152.

.232 The eighth zone priority mail rates apply to articles mailed between:

(1) Its Possessions,
(2) the Canal Zone, and
(3) the islands of the Trust Territory of the Pacific;

b. The Possessions of the United States and
(1) the Canal Zone, and
(2) the islands of the Trust Territory of the Pacific; and

c. The Commonwealth of Puerto Rico and
(1) the Possessions of the United States,
(2) the Canal Zone, and
(3) the islands of the Trust Territory of the Pacific.

.233 The priority mail rates according to zone apply to articles mailed between:

a. The United States and
(1) the Commonwealth of Puerto Rico, and
(2) the Virgin Islands, and

b. Between the Commonwealth of Puerto Rico and the Virgin Islands.

136.3 WEIGHT AND SIZE LIMITS

.31 WEIGHT

Priority mail may weigh up to 70 pounds. See part 126 for the exception to this limit for articles addressed to certain APO's and FPO's.

.32 SIZE

Priority mail is limited to 100 inches in combined length and girth. See part 126 for the exception to this limit for articles addressed to certain APO's and FPO's, and 135.32 for instructions on how to measure parcels.

136.4 PAYMENT OF POSTAGE

Mailers of priority mail matter may pay postage by adhesive stamps, stamped envelopes and postal cards, meter stamps, and permit imprints.

136.5 ADDITIONS AND ENCLOSURES

There are no special restrictions with respect to written additions and enclosures in priority mail.

136.6 MARKING, SEALING, AND DEPOSITING

.61 Place the word priority prominently on the address side of flat mail preferably below the stamps and above the address, and on the top, bottom, and sides of parcels. The return address of the sender must be shown on the address side of each parcel mailed at zone rates of postage.

.62 Priority mail may be sealed or left unsealed without affecting the priority rate.

.63 Priority mail must be deposited at the post office, branch, or station, or handed to a rural or star route carrier.

Part 137

OFFICIAL MAIL

137.1 MEMBERS OF CONGRESS

.11 COLLECTION OF POSTAGE, FEES AND CHARGES

Postage, fees and charges, on mail sent under the franking privilege by the Vice President, Members and Members-elect of Congress, Delegates or Delegates-elect, the Resident Commissioner or Resident Commissioner-elect from Puerto Rico, the Secretary of the Senate, Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and Legislative Counsel of the House of Representatives, and the Senate are paid quarterly by a lump sum to the Postal Service.

.12 DESCRIPTION

Official mail of Members of Congress is sent without prepayment of postage and bears a written signature, printed facsimile signature or other required marking instead of a postage stamp. Mail accepted under frank, and the officials authorized to use franked mail, are shown in 137.13.

.13 AUTHORIZED USERS

Persons authorized to use the frank	Matter that may be franked	Marking required	Period during which the frank may be used
Vice President of the United States, Members of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, and each of the elected officers of the House of Representatives (other than Members of the House).	Public documents printed by order of Congress.	The words *Public Document*—and the letters U.S.S. or M.C. must appear on the address side.	Until the 1st day of April following expiration of their respective terms of office.
Members of Congress and Resident Commissioners.	Congressional Record or any part of it or any reprint of any part of it or speeches or reports contained in it, if relating to official business, activities or duties.	The words *Congressional Record* or *Part of Congressional Record*—and the letters U.S.S. or M.C. must appear on the address side.	During term of office only.
Members of Congress.	Seeds and agricultural reports from the Department of Agriculture.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	Until the 30th day of June following the expiration of their terms of office.

.13 AUTHORIZED USERS (Cont'd)

Persons authorized to use the frank	Matter that may be franked	Marking required	Period during which the frank may be used
Vice President of the United States, Members and Members-elect of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, each of the Elected officers of the House of Representatives (other than a Member of the House), Legislative Counsels of the House of Representatives and the Senate.	Official correspondence including mailgrams.	Mailgrams may be sent in standard Mailgram envelopes. For other correspondence, the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During term of office only. When the position of Secretary, Sergeant at Arms, elected officer, or Legislative Counsel is vacant, privileges may be exercised in officer's name by authorized persons.
Vice-President-elect.	All mail, sent by him in connection with preparation for the assumption of official duties as Vice President.	The signature and title, either written or printed facsimile, of the Vice-President-elect must appear on the address side.	Until assumption of duties as the Vice President.
Former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House (other than a former Member of the House), and each former Delegate or Resident Commissioner.	Matter on official business related to the closing of their respective offices.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During the 90-day period immediately following the date on which he leaves office.
Former Speakers of the House.	Public documents, seeds and agricultural reports from the Department of Agriculture, official correspondence including Mailgrams.	The signature and title, either written or printed facsimile, of the former Speaker, or appropriate Mailgram or public document marking as indicated above, must appear on the address side.	For as long as the former Speaker determines necessary.

.14 RESTRICTIONS

The following restrictions apply to franked mail:

a. Matter transmitted under frank of the Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), each Delegate or Delegate-elect, the Resident Commissioner or Resident Commissioner-elect, and each Legislative Counsel of the House and the Senate must relate to the official business, activities, and duties of the Congress of the United States.

b. Matter transmitted under frank of the former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House of Representatives (other than a former Member of the House), and each former Delegate or Resident Commissioner must be on official business relating to the closing of his respective office.

c. No franked mail will be admitted to the mail unless admissible as ordinary mail.

d. A person entitled to use franked mail may not loan his frank or permit its use by any committee, organization, or association; or permit its use by any person for the benefit or use of any committee, organization, or association. This restriction does not apply to any committee composed of Members of Congress.

d. Franked mail is forwarded like any other mail, but when once delivered to the addressee it may not be remailed. A package of franked pieces may be sent by a person entitled to the franking privilege to one addressee, who, on receiving and opening the package, may on behalf of such person place addresses on the franked articles and mail them.

f. Franked mail is handled as ordinary mail.

g. Franked mail must be addressed to the recipient by name, *except as provided in 122.442.*

.15 WEIGHT AND SIZE LIMITS

.151 *Weight*

Official correspondence may not exceed 70 pounds.

.152 *Size, Shape, Ratio, and Sealing*

The provisions of 131.222, 131.32, 134.32, and 141.113 apply.

.16 FORWARDING MAILING RECORDS FOR FRANKED MAIL

.161 Post offices serving the offices of persons entitled to use the franking privilege must record on Form 103, Originating Franked Mail, the number of pieces of originating franked mail, the dollar value of special service fees, the number of incoming address corrections and the dollar value of incoming postage due items processed during each accounting period. The value of special service fees paid with postage affixed will not be recorded on the form. Do not report on Form 103 mail endorsed Second-Class, Controlled Circulation Rate or Third-Class Bulk Rate. The original Forms 3542 and 3602-PC must be submitted to Headquarters for such mailings. See 122.514c for post office reporting procedures for mailing lists submitted for correction by persons entitled to use the franking privilege. Forms 103, 3542 and 3602-PC prepared for franked mailings must be forwarded to the following office for billing purposes:

Revenue Statistics Branch
Office of Statistical Programs & Standards
U.S. Postal Service Headquarters
(Attn: Originating Franked Mail)
Washington, DC 20260

.162 Submit the completed form(s) in one batch no later than five working days after the close of each accounting period. A separate report must be submitted for each accounting period and should include all mailings for that accounting period only. Reports on Form 103 are not required by postmasters regarding revenue due the Postal Service on *POSTAGE AND FEES PAID* matter sent by agencies and departments of the Federal Government.

.163 Occasional franked mailings made at other post offices not regularly serving local Congressional offices may be reported by the originating post offices on Form 13, *Routing Slip*, or by memorandum.

.164 Post Offices regularly serving local Congressional offices must submit negative reports if no franked mail items are processed during an accounting period. Submission of negative reports by other post offices where occasional mailings originate is not required.

137.2 EXECUTIVE AND JUDICIAL OFFICERS

.21 COLLECTION OF POSTAGE AND FEES

Departments, agencies, and establishments of the United States Government must reimburse the Postal Service the equivalent amount of postage and fees due for the official mail service they receive. Instructions governing the manner of reimbursement for official mail service are issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Federal Government offices and officers must promptly furnish, in the manner and form requested, all information the Manager considers necessary to assure the accuracy of measurements of official mail use and the adequacy of budgeting to facilitate timely payment. The Manager may require offices and officers to establish improved methods of estimating or measuring official mail volume, or to initiate the use of postage meters or other forms of positive accountability for the use of official mail services, where he determines such action is necessary to secure adequate reimbursement to the Postal Service. Prior to making any such determination the Manager will consult with the office or officer involved as to possible alternative actions that might be taken which would be effective but which might have a better cost/benefit ratio. If the Manager, nevertheless, decides to require the use of postage meters or other forms of positive accountability for the use of official mail services, adequate advance notice will be given to affected agencies.

.22 DESCRIPTION

The following kinds of mail may be sent as Federal Government mail by those authorized to use this privilege:

a. Official mail relating exclusively to the business of the Government of the United States mailed by officers of the executive and judicial branches of the Government; official mail of legislative counsel for the House of Representatives and the Senate; official mail of the Superintendent of Documents; and official correspondence concerning the Congressional Directory under direction of the Joint Committee on Printing. *NOTE:* Mail matter such as retirement announcements, Christmas cards, job resumes, and all similar materials which do not relate exclusively to the business of the Government may not be sent as penalty or postage and fees paid mail.

b. All correspondence, bulletins, and reports relating to agricultural extension work and home economics carried on in cooperation with the United States Department of Agriculture, when mailed by the college officer or other person connected with the extension department of the college who has been designated by the Secretary of Agriculture. Mailings may be deposited by the designated officer only at the authorized post office. Correspondence must be conducted under the name of the designated officer. Correspondence with autograph signature may be sealed but all other matter must be left unsealed.

c. All correspondence, bulletins, pamphlets and other matter promoting cooperative extension work as a Federal enterprise or otherwise relating exclusively to the business of the Government of the United States, when mailed by cooperative extension agents of the United States Department of Agriculture Extension Service, such as county agents, county home demonstration agents, farm management demonstrators and farm forestry agents, as part of their official duties. Correspondence mailed by cooperative extension employees should be signed by an authorized agent of the United States Department of Agriculture, who should give his official title, indicating that he is an officer of the United States Government entitled to use official mail.

d. Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of researches and experiments, including lists of publications available for distribution, when mailed by agricultural experiment stations designated by the act of March 2, 1887, as amended by the act of August 11, 1955, as follows:

The officer in charge of a station that claims the privilege of sending materials without prepayment of postage through the mail must file an application with the Office of Mail Classification, Rates and Classification Department, through the post office where the station is located, stating the date of establishment of the station, its name or designation, its official organization, the names of its officers, the name of the college, school or institution to which it is attached, if any, the legislation of the State or Territory providing for its establishment, and any other legislation granting it the benefits of the act of Congress referred to in this section.

e. Annual reports of Government-aided colleges established under the act of July 2, 1862, when addressed to the Secretary of the Interior, the Secretary of Agriculture, and to any other Government-aided college. The postmaster receiving the annual reports from an officer of the college will use a post office penalty envelope or label to send it through the mail.

f. Copyright material sent to the Register of Copyrights with claim for registration, as follows:

(1) Postmasters receiving the claim for registration and any articles that are required to accompany the claim will use a post office penalty envelope or label to send the matter to the Register of Copyrights, Washington, DC 20540.

(2) If requested to do so, the postmaster will give a receipt for articles delivered to him to accompany a claim for registration.

(3) When desired, the person submitting copyright matter to the postmaster may also present the fee for copyright registration enclosed in a sealed envelope addressed to Register of Copyrights, Washington, DC 20540, which must have postage prepaid at the letter rate. The postmaster, after canceling the postage stamps, will enclose the envelope containing the fee together with the copyright material in the post office penalty envelope sent to the Register of Copyrights.

(4) Matter for copyright enclosed in post office penalty envelopes will not be sent by registered mail unless the registry fee is prepaid.

.23 AUTHORIZED DEPARTMENTS AND AGENCIES

.231 Departments and agencies authorized to use official mail services are as follows:

ACTION
Administrative Conference of the United States
Administrative Office of the United States Courts
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Advisory Committee on National Growth Policy Process
Advisory Council on Historic Preservation
Agency for International Development
Agriculture, Department of
Air Force, Department of the
Alaska Power Administration
Alaska Railroad
Alcohol Drug Abuse and Mental Health Administration
Alcohol, Tobacco and Firearms, Bureau of
American Battle Monuments Commission
American Revolution Bicentennial Administration
Appalachian Regional Commission
Architect of the Capitol
Architectural & Transportation Barriers Compliance Board
Army, Department of the
Board for International Broadcasting
Bonneville Power Administration
Botanic Garden, United States
Business Economics, Office of
Census, Bureau of the
Center for Disease Control
Central Intelligence Agency
Civil Aeronautics Board
Civil Rights, Commission on
Civil Service Commission, United States
Coast Guard, United States
Commerce, Department of
Commission on Federal Paperwork
Committee for Purchase of Products and Services of the Blind and other Severely Handicapped
Commodity Futures Trading Commission
Community Services Administration
Comptroller of the Currency, Office of the
Congressional Budget Office
Cost Accounting Standards Board
Cost of Living Council
Council on Wage and Price Stability
Court of Claims, United States
Court of Customs and Patent Appeals, United States
Court of Military Appeals, United States
Customs, Bureau of
Customs Court, United States
Defense Civil Preparedness Agency
Defense Communications Agency
Defense Contract Audit Agency
Defense, Department of
Defense Intelligence Agency
Defense Investigative Service
Defense Logistics Agency
Defense Manpower Commission
Defense Mapping Agency
Defense Nuclear Agency
Delaware River Basin Commission
District of Columbia Court of Appeals
Domestic & International Commerce, Bureau of
Drug Enforcement Administration
Economic Advisers, Council of
Economic Development Administration
Education, Office of
Employment & Training Administration (Employment Security)
Energy Research & Development Administration
Engraving and Printing, Bureau of
Environmental Protection Agency
Environmental Quality, Council on
Equal Employment Opportunity Commission
Farm Credit Administration
Farmers Home Administration
Federal Aviation Administration
Federal Bureau of Investigation
Federal Communications Commission
Federal Crop Insurance Corporation
Federal Deposit Insurance Corporation
Federal Energy Administration
Federal Highway Administration
Federal Home Loan Bank Board
Federal Law Enforcement Training Center
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Power Commission
Federal Prison Industries, Incorporated
Federal Railroad Administration

Federal Reserve System, Board of Governors
Federal Supply Service
Federal Trade Commission
Fine Arts, Commission of
Fish and Wildlife Service
Food and Drug Administration
Foreign Claims Settlement Commission of the United States
Foreign Direct Investments, Office of
General Accounting Office
General Services Administration
Geological Survey
Government Financial Operations, Bureau of
Government Printing Office
Great Lakes Basin Commission
Harry S. Truman Scholarship Foundation
Health, Education, and Welfare, Department of
Health Resources Administration
Housing and Urban Development, Department of
Immigration and Naturalization Service
Indian Affairs, Bureau of
Indian Claims Commission
Inter-American Foundation
Interior, Department of the
Internal Revenue Service
International Boundary and Water Commission
Interstate Commerce Commission
Joint Chiefs of Staff
Justice, Department of
Kennedy, John F., Center for the Performing Arts
Labor, Department of
Land Management, Bureau of
Law Enforcement Assistance Administration
Library of Congress
Management and Budget, Office of
Marine Corps, United States
Marine Mammal Commission
Maritime Administration
Merchant Marine Academy, United States
Mines, Bureau of
Mining Enforcement and Safety Administration
Minority Business Enterprise, Office of
Mint, Bureau of the
Missouri River Basin Commission
National Advisory Council on Economic Opportunity
National Aeronautics and Space Administration
National Bureau of Standards
National Capital Planning Commission
National Commission for Productivity and Quality of Working Life
National Commission on Electronic Fund Transfers
National Commission on Libraries and Information Science
National Commission on Water Quality
National Credit Union Administration
National Foundation on the Arts and the Humanities
National Gallery of Art
National Highway Traffic Safety Administration
National Institute of Education
National Institutes of Health
National Labor Relations Board
National Mediation Board
National Park Service
National Science Foundation
National Security Council
National Transportation Policy Study Commission
National Transportation Safety Board
Navy, Department of the
New England River Basins Commission
Nuclear Regulatory Commission
Occupational Safety and Health Commission
Oceanic and Atmospheric Administration, National
Office of Drug Abuse Policy
Office of Information for the Armed Forces
Office of International Affairs
Office of Technology Assessment
Organization of American States
Outdoor Recreation, Bureau of
Overseas Private Investment Corporation
Panama Canal Company
Pan American Health Organization (Sanitary Bureau)
Patent Office
Pennsylvania Avenue Development Corporation
Pension Benefit Guaranty Corporation
Postal Rate Commission
Presidential Clemency Board
Prisons, Bureau of
Public Debt, Bureau of the
Public Health Service
Railroad Retirement Board

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Reclamation, Bureau of
Regional Action Planning Commissions
Renegotiation Board
St. Lawrence Seaway Development Corporation
Saline Water, Office of
Secret Service, United States
Securities and Exchange Commission
Selective Service System
Small Business Administration
Smithsonian Institution
Social and Rehabilitation Service
Social Security Administration
Southeastern Power Administration
Southwestern Power Administration
Special Action Office for Drug Abuse Prevention
Special Representative for Trade Negotiations, Office of the
State, Department of
Superintendent of Documents
Superior Court of the District of Columbia
Supreme Court of the United States
Tax Court, United States
Technical Information Service, National
Telecommunications, Office of
Telecommunications Policy, Office of
Tennessee Valley Authority
Transportation, Department of
Transportation Systems Center
Travel Service, United States
Treasurer of the United States, Office of the
Treasury, Department of the
United States Information Agency
United States International Trade Commission
United States Soldier's & Airmen's Home
University of Health Sciences—Uniformed Services
Upper Mississippi River Basin Commission
Urban Mass Transportation Administration
Veterans Administration
Water Resources Council

.232 Departments and agencies created since publication of the list in 137.231 and other departments or agencies not appearing on the list may inquire of the Manager, Government Revenue and Examination Branch, Finance Department, regarding possible authorization to use official mail services.

.233 The right of an officer to use the official mail privilege ceases immediately when he leaves office.

.24 INDICIUM

.241 An area 1 1/4 inches by 3 inches is reserved in the upper righthand corner of the mail piece for the indicium. No other markings may appear in this area except boarders extending no further than one-quarter inch from the envelope edges.

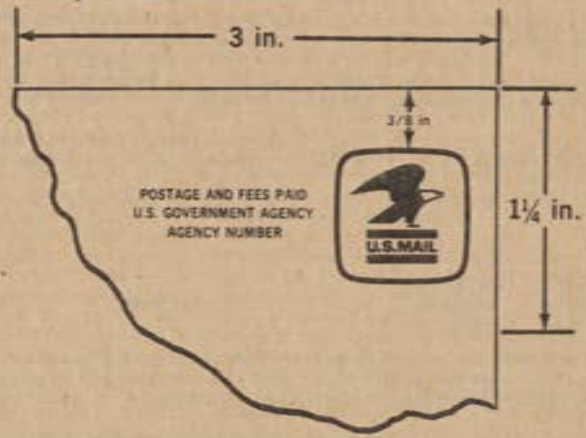
.242 a. The indicium for letter size official mail must not be handwritten or typewritten and must consist of the postal emblem (actual size shown below) located 3/8 inch from the top edge of the mail piece; and, to the left of the postal emblem, the words *Postage and Fees Paid*, the name of the department or agency, and the agency number.

b. The postal emblem may be reduced in size to not less than 5/8 inch by 5/8 inch and the indicium area to not less than 1 inch by 2 inches.

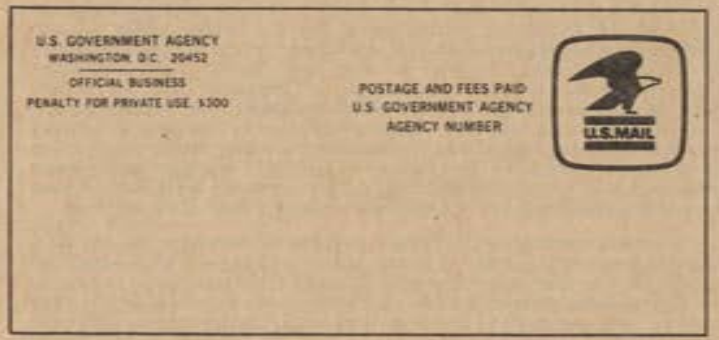
c. Use of the postal emblem as part of the indicium is optional on larger than letter-sized mail.

d. The postal emblem may be omitted on self-mailers completely printed by computer with no provisions for printing designs other than letters and numerals, provided the items are faced, sorted, and tied in bundles by ZIP Code.

e. Any endorsement for special service or class of mail should be placed approximately 1/4 inch below the indicium.



.243 Official mail of departments or agencies must bear in the upper left corner of the mail piece (as shown below) the complete return address and the words *Official Business, Penalty for Private Use, $300*. The return address and statement may not be handwritten or typewritten.



.244 Official mail of designated State extension directors must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage, followed by the name and title of the designated officer and the words *Cooperative Agricultural Extension Work—Acts of May 8 and June 30, 1914.* The postal emblem, the words *Postage and Fees Paid U.S. Department of Agriculture*, and the agency number must appear in the upper right corner of the address side.

.245 Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the

officer in charge of the station, followed by the word *Publication*. The title of the bulletin or report may be used. The postal emblem, the words *Postage Paid U.S. Department of Agriculture*, and the agency number must appear in the upper right corner of the address side.

.246 Official mailings made by cooperative extension agents described in 137.22c must be prepared in accordance with the provisions of 137.242 and .243.

.247 The markings required in 137.242 through .246 may not be used to transmit mail other than official mail.

.248 Mail of departments and agencies which is not sent by use of official envelopes or labels as provided in 137.242 through .246 must have postage prepaid. The regular rates and conditions apply.

.25 REPLY AND CONTRACTOR USE.

.251 Except as provided in 137.252, .253, and .254, a department or agency authorized to use the official mail privilege may not loan or furnish official envelopes or labels to any private person, concern, or organization, or permit the use of such envelopes or labels for private benefit.

.252 A department or agency authorized to use the official mail privilege may furnish printed official reply envelopes and labels, preaddressed to a Federal Government office or officer, to a person, concern, or organization from or through whom official matter is desired. Reply envelopes and labels may not be furnished to bidders, nor may they be furnished to contractors under this provision other than for the return of extraordinary, non-recurring matter. (For envelopes and labels for contractors generally, see 137.253, .254.)

.253 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize printer-mailer contractors to use official envelopes and labels to mail, on behalf of that department or agency matter printed at Government expense. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of offical envelopes and labels.

.254 A department or agency authorized to use the official mail privilege may request the Manager, Government Revenue and Examination Branch, Finance Department, to issue a permit for that department or agency to authorize non-printer-mailer contractors to use official envelopes and labels, pre-addressed to a Federal Government office or officer, for the transmission of official matter for a specified time, or in the performance of specific contracts with the office or officer. As provided in 137.257, any department or agency requesting a permit must furnish with the request all information the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.255 The Manager, Government Revenue and Examination Branch, Finance Department, or his designee, shall review each request under 137.253, or .254 and permit the department or agency to authorize contractor use of official envelopes and labels for a period of one year if he determines that the department or agency has established sufficient accountability procedures to insure reimbursement to the Postal Service for mail service provided to

contractors. In making this determination, the Manager, or his designee, shall consider factors including, but not limited to, the following:

a. Any relevant misuse of the official mail privilege, including the misuse of official envelopes or labels for the transmission of nonofficial matter by contractors licensed by the department or agency under 137.253 or .254;
b. Any relevant failure of the department or agency to comply with official mail reimbursement instructions issued by the Manager under 137.21, including failure to establish accurate methods for estimating or measuring the volume of official mail;
c. The method, such as use of a permit imprint, bulk permit, or meter, proposed by the department or agency for obtaining adequate information to insure full reimbursement for the proposed contractor use of offical mail.

.256 Official envelopes and labels used by any person, concern, organization, or contractor, as provided in 137.252, .253, and .254 must bear the printed return address of one of the authorized departments or agencies listed in 137.231 and be printed in the form set out in 137.242 and .243. No return name and address of a private person, concern, organization, or contractor may be shown. When a special service is required, the envelope or label must be preprinted with the type of special service desired. Private users of offical envelopes and labels may not add their own marking for these services.

.257 Departments and agencies authorized to use the official mail privilege must reimburse the Postal Service for the private use of official envelopes and labels under 137.252, .253, .254, as provided in instructions issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department. Departments and agencies, and any contractors authorized by them to use official envelopes and labels, shall promptly furnish, in the manner and form requested, all information, including but not limited to contractor name, points and dates of mailing, classes, quantities, and single-piece weights of mail matter, the Manager considers necessary to insure accurate reimbursement to the Postal Service for private use of official envelopes and labels.

.26 WEIGHT AND SIZE LIMITS

.261 Weight.—Official mail must conform to the weight limitations in sections 131.31, 134.31, 135.31 (except that parcels weighing 70 pounds may be accepted at all post offices), and 136.3.

.262 Size.—a. If physically possible, mail should be prepared to be within the range of sizes which can be machine processed, and also most efficiently hand processed. This range of sizes, referred to as letter-size mail, is as follows:

Characteristic	Minimum mailable size (inches)	Maximum letter size (inches)
Height	3	5 3/4
Length	5	11 1/2
Thickness[1] (must be uniform)	0.007	0.25

[1] Cards exceeding 4 1/4 in. in height and/or 6 in. in length must be at least 0.009 in. thick and should not be thicker than 0.013 in.

b. If mail pieces must be larger than letter-size, mailers should avoid the use of items over 9 inches by 12 inches whenever possible. Items larger than that are especially difficult to handle even by manual methods.
c. Mail, other than letter-size mail, may not exceed 100 inches in combined length and girth. See 135.32 for instructions on how to measure.

.263 Shape.—a. Envelopes, cards, and self mailers must be rectangular, regardless of size or class of mail.

b. Letter-size mail must have a maximum ratio of height to length of 1 to 1.4, and a minimum ratio of 1 to 2.5.

.27 SERVICES TO BE PROVIDED

.271 Treatment.—All official mail must be treated as first-class mail, unless it is endorsed to a lower class. EXCEPTION: Pieces weighing over 13 ounces must be treated as third- or fourth-class mail unless endorsed as priority mail. Official mail endorsed to indicate a special service must be given the service indicated. (See Publication 42 regarding international mail.) EXCEPTION: Reply envelopes and labels and envelopes and labels used by contractors must be preprinted with special service endorsements (see 137.256). Endorsements which are typewritten, handwritten, rubber stamped or applied by adhesive stickers are not acceptable on preprinted reply envelopes and labels.

.272 Forwarding, Return, and Address Correction Services.—Official mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for postage due accruing on offical mail.

.273 Mailing Permits.—Applications for mailing permits must be handled in the following manner:

a. *Postage Meter*

(1) *License.* the regular procedures prescribed in Part 144 must be followed. EXCEPTION: Prepayment is not required at time of setting. Meters must be set to maximum capacity to preclude unnecessary settings, and billings must be handled on a centralized basis from headquarters. A special official mail meter-stamp design is prescribed for meters used for official mail (see 144.41). The license to use a postage meter Form 3601—A, Application For a Postage Meter License, must be approved by the Government Revenue and Examination Branch. A copy of the license must be provided to the post office at the authorized location as the authority to set the meters without prepayment. Form 3610, Record of Meter Setting, must be executed and maintained by the meter-setting employee for each Federal Government entity. A separate ledger should also be maintained for Government meters. The original of Form 3603, Receipt of Postage Meter Setting, must be given to the agency and the copy forwarded to the Government Revenue and Examination Branch, along with a copy of the postage Form 3610 for billing purposes.

(2) *Mailings.* Federal Government agencies are not entitled to send official mail at nonprofit rates or other subsidized rates, but must use the full unphased rates for all classes of mail matter for which postage rates are phased. This includes mailings made at second-class, controlled circulation, and special fourth-class rates. Post offices serving Federal Government agencies using postage meters must monitor such mailings for possible postage deficiences.

b. *Second Class*

(1) *Application.* Federal Government agencies may apply for second-class mail privileges for periodical publications which meet the basic qualifying conditions stated in 132.22 by completing Form 3501, Application for Second-Class Mail Privileges. Form 3501 and two copies of the publication on which the application is based should be filed at the post office of the place where the known office of publication is located. Postmasters must verify the circulation of the publication for which an application is filed and complete the appropriate items on the application. The verification results must be recorded in column (c) on the back of the application. The postmaster's report portion on the front must be completed giving a description of the records examined which substantiate the circulation of the publication. The application and a copy of the publication must be transmitted to the Director, Office of Mail Classification, for processing.

(2) *Mailing.* Official mail sent at second-class rates must meet the provisions of Parts 125 and 132. Exception: The provisions of 125.68 and 132.25 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked SECOND-CLASS MAIL or SECOND-CLASS MAIL NEWSPAPER (as appropriate) preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

c. *Controlled Circulation*

(1) *Application.* Federal Government agencies may apply by letter or memorandum to mail publications at controlled circulation rates if they meet the qualifying conditions in 133.21. The application and a copy of the publication on which it is based may be filed at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at controlled circulation rates must meet the provisions of Part 133. Exception: the provisions of 133.3 do not apply to such mailings. The address side of each copy, or its envelope or wrapper, must be plainly marked CONTROLLED CIRCULATION RATE preferably in a position beneath the official indicium and above the address of the recipient. See 137.275a for billing of postage charges.

d. *Bulk Third-Class Permits*

(1) *Application.* Federal Government agencies may apply to mail at regular bulk third-class rates by letter or memorandum. The application may be filed at the post office where the mailings will be presented or sent directly to the Director, Office of Mail Classification. Applications which are filed at local post offices must be forwarded by the postmaster to the Director.

(2) *Mailings.* Official mail sent at bulk third-class rates must meet the provisions of Part 134. Exception: the provisions of 134.422 and 134.423 do not apply to such mailings. The address side of each piece, or its envelope or wrapper must be plainly marked THIRD-CLASS BLK RT preferably in a position beneath the official indicium and above the address of the recipient. See 137.275c for billing of postage charges.

e. *Permit Imprints*

(1) *Application.* Federal Government agencies may apply to mail identical pieces of first- and fourth-class mail under the permit imprint system. The application may be filed by letter, memorandum or on Form 3601, Application to Mail Without Affixing Postage Stamps, either at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications filed at local post offices must be forwarded by the postmaster to the Director. A special form of permit imprint is prescribed for official mail sent at first- and fourth-class rates (see 145.4).

(2) *Mailings.* Official mail sent under permit imprint must meet the provisions of Part 145. Exception: The provision of 145.13, 145.33, 145.561, and 145.562 do not apply to such mailings. Form 3083, Trust Account Receipts and Withdrawals, does not reflect mailings made under permit imprint by Federal Government agencies. See 137.275b for billing of postage charges.

f. *Business Reply Mail*

(1) *Application.* A Federal Government agency or department may apply for a business reply permit by filing an application in duplicate on Form 3614, *Application To Distribute Business Reply Cards, Envelopes, Cartons, and Labels*, at the post office where the mail will be returned. On receipt of the application, the postmaster will complete the approval and permit portions of the form. The application portion of the orginal

and duplicate copies will be annotated *Federal Government Agency*. Deliver the original permit portion to the applicant. The original copy of the application portion will be filed in the post office pursuant to the provisions of PSM 131.232b. The duplicate copy of the application and the duplicate permit portion will be forwarded to the Manager, Government Revenue and Examination Branch, Accounting Division, U.S. Postal Service Headquarters, Washington, DC 20260, for annual fee and accounting fee billing purposes.

(2) Mailings. The number of pieces of business reply mail returned each day to a Federal Government agency will be recorded by the post office where the mail is returned on Form 25, *Trust Fund Account*, together with the amount chargeable for postage and fees. At the end of each accounting period, all Forms 25 will be forwarded to the Manager, Government Revenue and Examination Branch, for billing purposes. *If no business reply mail items are received during an accounting period, the post office must submit a negative report on Form 25.* Post offices will make no collections of money at the local level from Federal Government agencies in connection with issuance of business reply permits or postage and fees due on such mail. Annual fees, accounting fees, postage, and business reply charges will be paid by Federal Government agencies in accordance with the reimbursement procedures of PSM 137.21. All other postal regulations pertinent to the preparation and distribution of business reply mail are applicable to such mail prepared and distributed by Federal Government agencies. Irregularities must be handled in accordance with the general instructions in PSM 137.81.

g. Approved Applications

If an application for any mailing permit is approved, each postmaster at the post office of entry must be advised. Postmasters must insure that mailings are properly presorted and otherwise prepared in accordance with the requirements of their classification.

.274 Fees.—Postmasters must not collect fees due for second-class or permit imprint applications nor must they collect annual bulk-mailing fees. The fees must be included in the next regular billing made to the respective agency by the Government Revenue and Examination Branch at Headquarters.

.275 Mailing Statements for Billing Purposes.

a. Form 3542, Statement showing number of Copies of Second-class or Controlled Circulation Publication Mailed. Federal Government agencies must file Form 3542 at the entry post office for offical mail sent at second-class and controlled circulation rates. The postmaster must forward the forms to Headquarters for billing purposes. Preparation of Form 3541, *Computation of Second-Class or Controlled Circulation Postage*, is not required.

b. Form 3602, Statement of Mailing Matter With Permit Imprints. Federal Government agencies must present Form 3602 at the post office when first- and fourth-class official mail is sent under the permit imprint system. At the end of each accounting period Form 3602 and corresponding Forms 3607, *Weighing and Dispatch Certificate*, together with Forms 3609, *Record of Permit Imprint Mailings*, must be forwarded by the postmaster to Headquarters for permit imprint billing purposes.

c. Form 3602-PC, Bulk Rate Mailing Statement—Third-Class Mail. Federal Government agencies must present Form 3602—PC at the post office when official mail is sent at bulk third-class rates. The front of the form must be fully completed by the mailer to identify the mailing agency and must include the following information:

(1) The permit number should be a six-digit coding. Zeros should be added at the end of the authorized permit number if it is not a six-digit coded number (for example 005-200).

(2) The date and total number of pieces in the mailing should be complete and legible.

(3) The designation of type of matter mailed such as circulars, books, or catalogs, should be indicated in the appropriate block.

(4) The weight of a single piece should be indicated in ounces and carried five places to the right of the decimal point Examples are:
1 ounce to be written as—1.00000
3/4 ounce to be written as—.75000
2/3 ounce to be written as—.66667
1/2 ounce to be written as—.50000
1/3 ounce to be written as—.33333
1/4 ounce to be written as—.25000

(5) The back of Form 3602—PC must be fully completed and signed by the receiving employee.

.276 Forwarding Billing Records.—All mailing statements and copies of Forms 3541, 3541A, 3602, 3602—PC, 3603, and 3610 pertinent to official mailings and meter settings must be forwarded to the following address at Headquarters for billing purposes:

Manager, Government Revenue & Examination Branch, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West SW, Washington, DC 20260.

The Forms 3602 and 3602—PC must be forwarded at the end of each accounting period. The other forms should be forwarded when mailings or meter settings occur.

.277 Exception Reports.

a. Irregular Mailings

(1) Improper Preparation. If any official mailing other than first class or priority mail is not properly prepared or otherwise fails to qualify for a rate with which the pieces are endorsed, the mail must not be accepted. For presorted mail that does not comply with preparation requirements, a report must be submitted immediately to the Government Revenue and Examination Branch so that the agency can be billed at the appropriate rate.

(2) Mailings Without Authorization. If official mail is presented for acceptance as second-class, controlled circulation, bulk third-class, permit imprint or metered mail at a post office without authorization, it must be accepted and processed by the post office in accordance with 137.81. An exception report must be submitted with the mailing statement or other record to the Government Revenue and Examination Branch.

.28 ZIP CODING OF MAIL.

.281 Addressing.—The address on all official mailings of Federal departments and agencies under 137.2 must include the ZIP Code number.

.282 Presorting and Postage Charges.—If identical pieces of individually addressed matter are included in a single mailing at the bulk rates in 131.12, 134.12, 135.122, 135.132 and 136.13, the mail must be prepared as prescribed for each bulk category.

137.3 CENSUS AND NATURALIZATION MAIL.

.31 CENSUS MAIL.—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Commerce or to one of its bureaus or agencies, may be used to transmit mail relating to a collection of statistics, survey or census authorized by title 13, United States Code.

.32 NATURALIZATION MAIL.—Official envelopes and labels prepared in accordance with 137.24 and pre-addressed to the Department of Justice, to the Immigration and Naturalization Service, or to any of its officials may be used by clerks of courts to transmit mail relating to naturalization.

137.4 STATE EMPLOYMENT SECURITY MAILINGS

All mail of State employment security offices cooperating with the Department of Labor that bears, in the upper left corner of the address side, the words *Official Business* printed immediately below the name and address of the State employment agency and, in the upper right corner, the words *Postage and Fees Paid, Employment Security Mail* LAB-449 will be accepted without prepayment of postage or fees. Postage and fees chargeable are collected periodically under a special arrangement with the Postal Service. Such matter will be given the service indicated on the cover.

137.5 ABSENTEE BALLOTING MATERIALS

.51 PURPOSE

Balloting materials consisting of post card applications, ballots, voting instructions, and envelopes, are sent through the mail without prepayment of postage, for the purpose of enabling every person in any of the following categories to vote by absentee ballot when he is absent from the place of his voting residence and is otherwise eligible to vote:

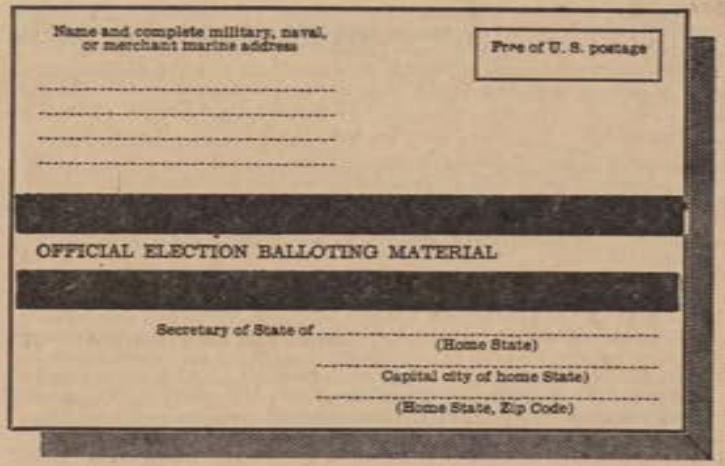
a. Members of the Armed Forces while in the active service and their spouses and dependents.
b. Members of the merchant marine of the United States and their spouses and dependents.
c. Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing or accompanying them. To be mailable free of postage, the balloting materials must be deposited at a United States post office, an overseas United States military post office, or presented to an American embassy.

.52 ELECTIONS AFFECTED

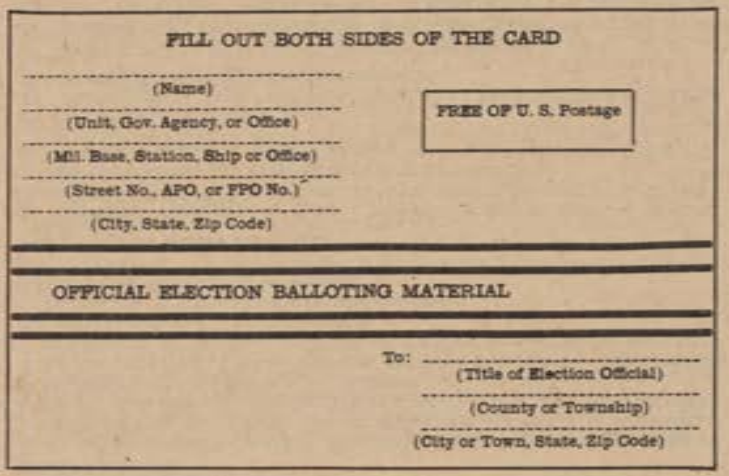
The materials may be sent for any general election of electors for President and Vice President or of Senators and Representatives in Congress and for other general, primary, and special elections.

.53 MARKINGS REQUIRED ON BALLOT ENVELOPES AND POST CARD APPLICATIONS

.531 Envelopes used to send balloting material and envelopes supplied for return of the ballot must have printed across the face two parallel horizontal red bars, each ¼ inch wide, extending from one side of the envelope to the other side, with an intervening space of ¼ inch, the top bar to be 1¾ inches from the top of the envelope, and the words *Official Election Balloting Material* or similar language as prescribed by State law, between the bars. There must be printed in the upper right corner of each envelope in a rectangular box the words *Free of U.S. Postage*. All printing on the fact must be in red with an appropriate inscription or blanks for return address of sender in the upper left corner.



.532 The Federal post card application shall be approximately 9½ x 4⅛ inches in size. On the address side of the card shall be printed in red ink the following:



137.6 PRESIDENT-ELECT, FORMER PRESIDENT, SURVIVING SPOUSE OF FORMER PRESIDENT AND SURVIVING SPOUSE OF MEMBER OF CONGRESS

.61 PRESIDENT-ELECT

All mail of any President-elect sent by him in connection with his preparations for the assumption of official duties as President may be accepted subject to the provisions of 137.233.

.62 FORMER PRESIDENT AND SURVIVING SPOUSE OF FORMER PRESIDENT

All nonpolitical mail of former United States Presidents, and of the surviving spouse of a former President, shall be accepted without prepayment of postage if it bears the written signature of the sender, or a facsimile signature and the words Postage and Fees Paid in the upper right corner of the address side.

.63 SURVIVING SPOUSE OF MEMBER OF CONGRESS

Upon the death of a Member of Congress during his term of office the surviving spouse of such Member may send, without prepayment of postage for a period not to exceed one hundred and eighty days after the death of the Member, correspondence relating to the death of the Member, provided it bears the written signature of the sender, or a facsimile signature in the upper right corner of the address side.

137.7 GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES AND PAN AMERICAN SANITARY BUREAU

The General Secretariat of the Organization of American States and Pan American Sanitary Bureau are authorized by law to transmit official matter without prepayment. The mail must bear the printed clause citing the penalty for private use instead of postage stamps. It must be prepared like Federal Government penalty mail and is subject to the same restrictions. See 137.233, 137.24, and 137.25.

137.8 GENERAL INSTRUCTIONS

.81 OFFICAL MAIL NOT TO BE DETAINED

Official mail of any kind must not be detained even though there are indications of abuse of official mailing privileges. It must be promptly dispatched and delivered to the addressee. Reports of the indicated abuse must be submitted to the Office of Mail Classification, Rates and Classification Department.

.82 SEPARATION OF OFFICIAL MAIL BY MAILER

Official mail must be separated according to the class of mail and special service requested before it is deposited at the post office. Second-class, controlled circulation, bulk third-class and special rate fourth-class mail must be prepared in accordance with Part 125 or sections 134.43, or 135.216. The postmaster will furnish appropriate sack labels with which to identify the various types of mail.

Part 138

FOR THE BLIND AND OTHER HANDICAPPED PERSONS

138.1 CONDITIONS

The following conditions are applicable to articles mailable free of postage under this section:

a. Except as provided in 138.21 the matter is for the use of the blind or other persons who cannot use or read conventionally printed material because of a physical impairment who are certified by competent authority as unable to read normal reading material;

b. No charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;

c. The matter may be opened for postal inspection;

d. The matter contains no advertising.

138.2 ITEMS MAILABLE FREE

.21 Unsealed letters sent by a blind person or a person having a physical impairment as described in section 138.1a in raised characters or in 14 point or larger sightsaving type or in the form of sound recordings;

.22 Reading matter and musical scores;

.23 Sound reproductions;

.24 Paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

.25 Reproducers or parts thereof for sound reproductions; and

.26 Braille writers or typewriters, or parts thereof, used for writing by or specifically designed or adapted for use of a blind person or a person having a physical impairment as described in section 138.1a.

.27 Educational or other materials or devices, or parts thereof, specifically designed or adapted for use of a blind person or a person having a physical impairment as described in section 138.1a.

138.3 MARKINGS

All matter mailed under the provisions of Part 138 shall show the words *Free Matter for the Blind or Handicapped* in the upper right corner of the address side.

138.4 WEIGHT AND SIZE LIMITS

The weight and size limitations in 135.31 are applicable to mailings made under this part.

Part 139

MIXED CLASSES

139.1 MAIL OF A HIGHER CLASS ENCLOSED WITH MAIL OF A LOWER CLASS

When mail of a higher class is enclosed with mail of a lower class, the rate of postage on the entire piece or package is that of the higher class except as provided in 139.3. See 139.2 for attachment of letters to parcels of second-, third-, and fourth-class mail.

139.2 COMBINATION MAILINGS OF TWO CLASSES

.21 ATTACHMENT

Letters or other pieces of first- or third-class mail may be placed in an envelope and securely tied or otherwise attached to the address side of a second-, third-, or fourth-class mailing piece. The envelope must be placed on the address side of the principal mailing piece. Combination envelopes or containers having separate parts for the two classes of mail may be used. See 134.8 concerning the sealing of third-class mail.

.22 ADDRESSING

The name and address of the sender and the name and address of the addressee should be placed on both the principal mailing piece and the attachment. If both names and addresses do not appear on both pieces, the sender's name and address must be placed on one and the name and address of the addressee must be placed on the other. Combination containers having inseparable portions or compartments are mailable with the names and addresses on only one portion.

.23 POSTAGE

Postage on the second-, third-, or fourth-class mail must be prepaid at the appropriate rate and must be placed in the upper right corner of the address space. Postage at the appropriate first- or third-class rate must be paid for the attachment and affixed to it.

.24 MARKINGS REQUIRED

First-class attachments may be marked *First Class* or *Letter Enclosed*. Third-class attachments must be marked *Third Class*.

139.3 MAILING ENCLOSURES OF DIFFERENT CLASSES

.31 ENCLOSURES MAILED WITH SECOND-CLASS AND CONTROLLED CIRCULATION PUBLICATIONS

.311 *First- and Third-Class Enclosures*

Separate and independent pieces of first- or third-class mail may be mailed as enclosures with second-class and controlled circulation publications.

.312 *Payment of Postage*

Postage at the appropriate first- or third-class rate must be paid for each separate enclosure. Pieces of related matter enclosed with a publication as a unit may be regarded as a single enclosure for purpose of computing postage. The postage may be placed on the enclosure by using precanceled or meter

stamps, or the postage may be placed on the outside envelope, wrapper, or cover by using precanceled stamps, meter stamps, or permit imprints. Postage at the second-class pound or per copy rates or postage at the controlled circulation rates must be paid on the publication in the manner prescribed by Part 125. When postage at the transient second-class rate is paid on the publication, follow the procedure in 139.32.

.313 *Marking Required*

When postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication, the mailer must mark each piece as required by 139.325. Markings are not required when postage is placed on the enclosure.

.32 ENCLOSURES MAILED WITH THIRD- AND FOURTH-CLASS PARCELS

.321 *First-Class Enclosures*

a. Letters may be enclosed with books, catalogs, and merchandise mailed at third-class rates. (See 139.2 for mailing letters with other third-class matter.) Letters may be enclosed in fourth-class parcels. Postage at the first-class rate must be paid for each letter.

b. An incidental first-class addition to a third- or fourth-class mailing piece, but inseparable from the piece to which it is attached, e.g., label, tag, etc., will, for postage payment purposes, be treated as though it were a separate first-class enclosure.

.322 *Third-Class Enclosures*

Third-class mail may be enclosed in a fourth-class parcel mailed at the special rates in 135.12, 135.13, and 135.14 or mailed free under 138. Postage at the applicable third-class rate must be paid for enclosures except the items listed in 135.6.

.323 *Placement of Enclosure*

The enclosure should be placed on top of other items in the parcel when practical.

.324 *Payment of Postage*

Postage for the enclosure must be placed on the outside of the parcel. It may be added to the postage for the parcel and the total amount paid together, or the postage for the enclosure may be affixed separately from the postage for the parcel.

.325 *Marking Required*

The mailer must place the endorsement *First-Class Mail Enclosed* or *Third-Class Mail Enclosed* on each parcel below the postage and above the address. The endorsement may be handstamped, handwritten, typewritten, printed, or put on by any other method.

.33 PENALTY

.331 *Failure to Pay*

If postage is not paid at the appropriate rate in the manner provided for by 139.31 and 139.32 for letters or other pieces of first- or third-class mail, the second-class publications or the third- or fourth-class parcels in which they are enclosed will be subject to the higher rate applicable to the enclosure.

.332 *Concealment*

Mailers are subject to a fine of not more than $100 if they knowingly conceal letters or other pieces of first- or third-class mail in second-class publications or in the third- or fourth-class parcels without paying the appropriate rate of postage on the enclosures in the manner provided for by 139.31 and 139.32.

139.4 TREATMENT

.41 FORWARDING

Pieces of second-, third-, or fourth-class mail having other classes of mail enclosed under the combination mail arrangements provided for by section 139.2 are subject to the same conditions for forwarding as single pieces of second-, third-, or fourth-class mail (see Part 158). If the enclosure is first-class mail, that fact will not affect the conditions of forwarding.

.42 RETURN

.421 Undeliverable combination mail pieces, including those which cannot be forwarded, one part of which is first-class mail, shall in all cases be returned to the sender subject to the charge for return according to its class. See sections 159.22, 159.23, 159.24, 159.25, and 159.26. The weight of the first-class piece will not be included when computing the charge for return of the second-, third-, or fourth-class portion.

.422 Any undeliverable combination mailing piece which does not include first-class matter shall be disposed of as provided in Part 159.

.423 If for any reason an undeliverable combination mailing piece, one part of which is first-class mail, is not returnable to the sender, it will be treated as provided in section 159.72.

139.5 SPECIAL SERVICES

Combination mailing pieces may be sent as special delivery or in the case of third- or fourth-class parcels as special handling, and only one fee applicable to the parcel is required. Combination pieces may not be registered. They may be sent insured or COD, the insurance to cover only the value of the parcel.

Subchapter 140 POSTAGE

Part 141

ENVELOPES, POSTAL CARDS, AEROGRAMMES

141.1 USE

.11 ENVELOPES

.111 COLOR

Use any light color that does not interfere with legible address and postmark. Do not use brilliant colors.

.112 QUALITY

Use paper strong enough to withstand normal handling. Highly glazed paper, or paper with an overall design, is not satisfactory.

.113 SIZE, SHAPE, AND RATIO

Envelopes of standard sizes and shapes are essential to the economical handling of mail, both by machine and manual methods. The following standards apply to envelopes:

a. Envelopes less than 3 inches in width (height) or 4¼ inches in length are nonmailable.
b. Envelopes more than 9 inches in width (height) or 12 inches in length are not recommended.
c. Envelopes having shapes other than rectangular are nonmailable.
d. Envelopes having a ratio of width (height) to length of less than 1 to 1.414 (1 to the square root of 2) are not recommended.

.114 WINDOW ENVELOPES

Window envelopes, or open panel envelopes, may be used under the following conditions:

a. The address window must be parallel with the length of the envelope.
b. The proper place for the address window is in the lower portion of the address side.
c. Nothing but the name, address, and any key number used by the mailer may appear through the address window.
d. The return address should appear in the upper left corner. If there is no return address and the delivery address does not show through the window, the piece will be handled as dead mail.
e. The address disclosed through the window must be on white paper or paper of a very light color.
f. When used for registered mail, they must conform with the conditions in 161.33.
g. Window envelopes, but not open panel envelopes, may be used for business reply mail provided:
   (1) All of the address side except the portion which will show through the window is prepared as required by 131.234.
   (2) An address prepared by any of the processes and in the style provided for by 131.234 is furnished by the distributor for use as an enclosure to return the envelope.
   (3) The window covering is of such texture as to allow maximum transparency.

.115 Green Border Envelopes and Cards

The use of envelopes and cards bearing a green border must be for first-class mail matter only. All envelopes and cards bearing a green border shall be charged postage equivalent to the first-class rate.

.12 PLAIN STAMPED ENVELOPES

.121 *Envelopes Available at Post Offices*

Kind	Size	Denomination	Item No.	Prices		
				Less than 500	500	1,000
Regular	6¾	13¢	631	$0.15	$68.55	$137.10
	10	13¢	131	.15	69.20	138.40
Window	6¾	13¢	632	—	69.00	138.00
	10	13¢	132	—	69.85	139.70
Precanceled	6¾	2¢	643	—	13.55	27.10
	10	2¢	123	—	14.20	28.40

Limit requisitions to a 3-accounting period supply. A minimum quantity of 500 plain stamped envelopes must be ordered even though this may cause some post offices to exceed the 3-accounting period stock level.

.122 *Sales at Post Offices*

Only sizes 6¾ and 10 regular will be sold in less than full box lots. Boxes contain 500 envelopes.

.123 *Discount on Sales of Plain Regular Stamped Envelopes*

a. *Definition.* Plain regular envelopes are charged to and carried on post office records at the amounts specified in *Handbook F–1.* Sales to customers are made at the rates specified in 141.12. This results in sales of 500 and multiples thereof out of the main stock or fixed credits being made at a discount.

b. *Recording Discount.* A record shall be kept of each bulk sale of 500 lots of plain regular envelopes. Use Form 3220, *Stamped Envelope Sales at Discount.* As each sale is made, record the date, purchaser's name, and quantity sold. The selling employee will obtain the purchaser's name from the check used for payment or by asking when payment is by cash. Do not refuse sales to those who decline to identify themselves. State purchaser declined identification in the name column. Enter the quantity in the proper size and denomination column.

c. *Reporting Discount.* Employees selling 500 lots may complete Form 3220 as often as necessary, but at least each accounting period at offices with 950 or more revenue units and each postal quarter at other offices in time for the discount to be included in a regular requisition submitted during the same period or quarter. The total amount of the discount claimed must be included in the total amount of the regular requisition for stock. Submit this requisition to the custodian of the main stock. The station superintendent or an employee in a similar capacity must verify the computations on Form 3220, enter his initials and submit the form direct to the director, office of finance, chief accountant or employee maintaining the cashbook as specified in Handbook F–1.

.124 *Precanceled Envelopes*

Only nonprofit organizations or associations covered in 134.5 may purchase 2.0 cent precanceled envelopes. Sales are made in full box lots only.

PART 142
STAMPS (ADHESIVE)

142.1 AVAILABILITY AND USE

.11 TYPES

Purpose	Form	Denomination and prices
Ordinary postage.	Single or sheet.	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 24, 25, 30, 40, and 50 cents; $1 and $5.
	Books.	40 10-cent ($4),* 6 13-cent and 6 2-cent ($.90), 23 13-cent ($2.99)
	Coil of 100.	10* and 13 cents: (Dispenser to hold coils of 100 stamps may be purchased for 5 cents additional.)
	Coil of 500	1, 2, 3, 5, 6, 8, 10, and 13 cents, and $1.
	Coils of 3,000.	1, 2, 3, 5, 6, 8, 10, 13, and 25 cents.
Airmail postage	Single or sheet.	21, 25, 26, and 31 cents Available for international airmail service.
Commemorative stamps.	Single or sheet.	Various denominations as announced.
Precanceled postage.	Single or sheet, coils of 500 and 3,000.	Available to permit holders only. (See part 143.)
Postage-due (for post office use only).	Single or sheet.	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 30, and 50 cents; $1 and $5.

*Will be discontinued when stock is exhausted.

.12 USE

.121 Use stamps of the highest suitable denomination.

.122 Fix stamps firmly in the upper right corner of the address side of the mail cover.

.123 Any stamp partly concealed by an overlapping stamp may not be counted as postage.

.124 Postal employees (other than rural carriers as prescribed in 156.41) are not required to fix stamps to mail.

.125 Airmail postage stamps may be used to pay regular postage and fees for special services.

.13 PERFORATING

Postage and special delivery stamps may be perforated with an identifying mark if the holes do not exceed 1/32 of an inch in diameter and if the space taken by the mark is not larger than ½-inch square.

.14 REUSE PROHIBITED

Reuse of stamps with intent to cause loss to the Government is punishable by fine and imprisonment.

142.2 PURCHASE OF POSTAGE

.21 ACCEPTABLE FORM OF PAYMENT

Foreign or mutilated money is not acceptable. When the post office cannot make change, the exact amount of the purchase must be paid. Postal employees are not required to accept personal checks. To send money by mail, use money order or certified check.

.22 PURCHASE RECEIPTS

If the customer wants a receipt for purchases and has prepared the receipt in advance, the postal employee will stamp it upon payment. If the customer has not prepared but wants a receipt for purchases, Form 1096, Cash Receipt, will be used for postage and other services for which verification of payment is not already provided. The postal employee will fill in the total amount of the purchase and will stamp the form upon payment.

.23 POSTAGE DUE

Postage due must be paid in cash. Postage-due stamps may not be used for paying postage.

142.3 REPLENISHMENT OF STOCK BY WINDOW CLERKS

.31 CHANGE FUNDS

Change funds must not exceed 10 percent of the fixed credit or $100, whichever is smaller. Clerks assigned automatic changers may retain an additional $50.

.32 CLERKS REQUISITIONING ON WEEKLY OR 4-WEEK CYCLE

Main office window clerks at offices with 950 or more revenue units, who make direct-to-bank deposits, may requisition on a weekly or 4-week cycle provided equipment is adequate for protection of the fixed credit. Use Form 3310, *Stamp Sales Remittance*. Remit funds in excess of change funds daily near the end of tour of duty. Other window clerks at offices with 950 or more revenue units may be authorized to use Form 3310 to remit daily and requisition weekly provided protective facilities are adequate. When Form

143.3 MAILER'S PRECANCEL POSTMARK

Mailers may use a precancel postmark on stamped envelopes mailed at the first-class rate of postage. The precanceling imprint must include the name of the post office and State, the permit number preceded by the words *Mailer's Postmark*, the date of mailing, and sufficient cancellation lines to fully deface the stamp. In instances wherein substantial processing savings accrue to the Postal Service, the Manager, Mail Classification Division, U.S. Postal Service, Washington, DC 20260, may authorize precanceling adhesive postage stamps under the procedure described. The ink used for cancellation must provide adequate indelibility and sufficient contrast from the stamp to prevent re-use. Illustrated below is the authorized design of a mailer's precancel postmark:

143.4 PRECANCEL PERMITS

.41 APPLICATION FOR PERMIT

Applications for permits to use precanceled stamps, precanceled stamped envelopes, and mailer's precancel postmarks must be filed on Form 3620 at the post office where mailings will be made. Copies of this application form may be obtained from local postmasters. Applications to use the mailer's precancel postmarks must be accompanied with an imprint of the cancellation to be used.

.42 ISSUANCE OF PERMIT

.421 *Approval*

The postmaster will approve or disapprove the application. If it is approved, he will issue a *Precancel Permit* on Form 3620 to the applicant. If the permit covers the use of a mailer's precancel postmark, the permit will include a statement to that effect.

.422 *Post Office Precancels*

Issue permits on Form 3620. (See 143.42.) Deliver the permit to the applicant and file the application portion. Date each permit and number it consecutively beginning with No. 1 for the first permit issued at your office.

.423 *Mailer's Postmark Precancels*

On receipt of application on amended Form 3620, or by letter, to precancel Government stamped envelopes and postal cards by a mailer's postmark, issue a permit on an appropriately amended Form 3620. Follow procedure in 143.422. A specimen mailing piece bearing the proposed cancellation mark must be furnished by the applicant. File it with the application portion of Form 3620.

.43 REVOCATION

.431 Permits may be revoked if used in operating any scheme or enterprise of an unlawful character, or for the purpose of purchasing or acquiring stamps for other than mailing purposes, or for any noncompliance with the instructions on the *Permit*, Form 3620.

.432 The permit holder will be notified by letter by the postmaster at the post office that issued the permit that it is to be canceled, with the reasons for cancellation. The permit holder will be allowed 10 days within which to file a written statement showing why the permit should not be revoked. When no answer is filed, the postmaster will cancel the permit. If an answer is filed it should be forwarded with a statement of the facts to the Manager, Mail Classification Division, Finance Department, who will determine whether the permit shall be continued in effect. Notice of decision will be given the permit holder through the postmaster.

Part 144

POSTAGE METERS AND METER STAMPS

144.1 POSTAGE METERS

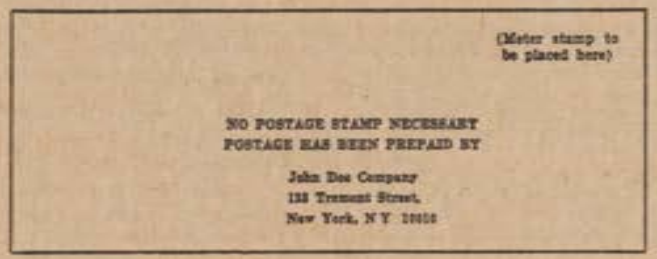
.11 USE OF METER STAMPS

.111 Postage may be paid by printing meter stamps with a postage meter on any class of mail. Metered mail is entitled to all privileges and subject to all conditions applying to the various classes of mail.

.112 Meter stamps may be used to prepay reply postage on letters and postcards under the following conditions:

a. Meter stamps must be printed directly on the envelope or card that bears the return address of the meter license holder in an amount sufficient to prepay in full the first-class rate.

b. Any photographic, mechanical, or electronic process, or any combination of such processes, other than handwriting, typewriting, or handstamping, may be used to prepare the address side of reply mail prepaid by meter stamps. The address side must be prepared both as to style and content in the following form without the addition of any matter other than a return address:



c. Reply mail prepaid by meter stamps will be delivered only to the address of the meter license holder. If the address is altered, the mail will be held for postage.

.113 Postage meter stamps for zero postage shall not be affixed to items delivered by other carriers since this would give the impression of Postal Service delivery.

.12 DESCRIPTION OF METERS

Postage meters are made to print single, several, or all denominations of postage. They contain in one sealed unit the printing die or dies and two

recording counters. One adds and keeps a total of all postage printed by the meter. The other subtracts and shows the balance of postage remaining in the meter, after the use of which it will lock. From time to time, mailers take the meter to the post office to have this counter set for additional postage, which is added to the balance remaining. Payment must be made for each additional setting.

.13 METER MANUFACTURERS

Postage meters may be leased from authorized manufacturers who are held responsible by the Postal Service for the control, operation, maintenance, and replacement, when necessary, of meters manufactured by them. The following manufacturers are presently authorized to lease meters to mailers:

a. ADS-POSTALIA, INC., 1423 Centre Circle Drive, Downers Grove, Il 60515
b. F.M.E. Corporation, 7901 Oakport Street, Oakland, CA 94621
c. National Cash Register Co., Dayton, OH 45409
d. Pitney Bowes, Inc., Pacific & Walnut Streets, Stamford, CT 06904

144.2 METER LICENSE

.21 APPLICATION

A customer may obtain a license to use a postage meter by submitting *Application for a Postage Meter License*, Form 3601-A (or a form supplied by the manufacturer), to the post office where his metered mail will be deposited. No fee is charged. On approval, the postmaster will issue a license.

.22 RESPONSIBILITIES OF LICENSEE

.221 After a meter has been delivered to a licensee, he must keep it in his custody until returned to the authorized manufacturer or to the post office. A customer may not have a meter in his possession unless it has been set, sealed, and checked into service by the Postal Service. Avoiding the payment of postage through tampering with or misusing a meter is punishable by law.

.222 The licensee must enter in the *Daily Record of Meter Register Readings*, Form 3602-A, the figures appearing in the ascending and descending registers each day the meter is operated. Failure to make such entries will be considered grounds for revocation of a meter license. If at any time the sum of the two figures does not equal the total entered in the Form 3602-A at the last setting, the meter should be taken immediately to the post office, station, or branch where it was set, for examination. The post office will provide Form 3602-A when the meter is initially set. Additional copies will be provided as the forms are filed.

.223 The meters in the custody of the licensee and his records relating to meter transactions must be immediately available for examination and audit by the Postal Service or meter manufacturer, see 144.962, upon request.

.224 If a meter is not reset within a 6-month period, it must be presented together with related Forms 3602-A for examination at the post office, station, or branch where it is regularly set.

.225 If the meter's printing or recording mechanism is in any way faulty, it shall be immediately taken to the post office, station, or branch where it is regularly set to be checked out of service. Under no circumstances, shall the faulty meter be used.

.23 REVOCATION

.231 A license may be revoked if a meter is used in operating any scheme or enterprise of an unlawful character, for nonuse during any con-

secutive 12 months, or for any failure of the licensee to comply with the regulations governing the use of postage meters.

.232 The meter license holder will be notified by the postmaster if the license is to be canceled and the reasons for cancellation. Form 3604, *Nonuse of Mailing Permit or Meter License*, may be used if cancellation for nonuse is being considered. If no written statement of objection is filed by the license holder within ten days, the postmaster will cancel the license. If a written statement is filed, the appeal shall be referred by the postmaster to the Office of Mail Classification for resolution. The Office of Mail Classification will notify the license holder of the decision through the postmaster. If a meter license is revoked, the postmaster will note the date and reason for cancellation on Form 3601–A (see 144.21).

144.3 SETTING METERS

.31 REQUIREMENT

a. A customer may not have any postage meter in his possession until it has been set, sealed, and checked into service by the Postal Service. The manufacturer will bring the meter to the post office where it is to be regularly set for setting and sealing prior to delievery to the customer, unless it is serviced in accordance with 144.38.

b. Post offices shall not set any meter which is not licensed at that post office, except as specified in 144.344. In the event that a customer moves from one post office to another, the meter(s) shall be check out of service in accordance with 144.351 and it, or another meter(s), shall be licensed at the new post office before the meter(s) is reset or initial settings are made in a new meter(s). This does not apply to branches or stations within a post office (see 144.345).

.32 PLACE

Meter settings, including checking meters in and out of service, will be done only by designated employees at the post office, station, or branch where the metered mail will be deposited, except as provided for in 144.345. Postal employees will not be sent out of the post office to set meters except under the on-site meter setting program as provided for in 144.38. Contract stations and branches are not authorized to set meters.

.33 PAYMENT

a. Payment must be made for postage at the time the meter is set. Payment may be made by cash, check, money order, or by a withdrawal from a trust fund previously established with the post office for that purpose. See section 142, Fiscal Handbook F–1, regarding the acceptance of checks. Trust accounts may be established when the monthly mailing of a license is $500 or more. No activity in the account over a 60-day period shall be grounds for closing of the account by the post office and returning the trust funds to the mailer.

b. Receipts for payment to a trust account shall be made on Form 3544, *Post Office Receipt for Money*. The original will be given to the customer, the duplicate sent to the office maintaining the cashbook, and the triplicate retained by the employee setting the meter. Trust account transactions shall be recorded on Form 25, *Trust Fund Account*, kept on the individual account by the employee setting the meter. Daily totals of the money received for such trust funds shall be listed on the *Daily Cash Report*, Form 1412.

c. Receipts for individual meter settings shall be made on Form 3603, *Receipt for Postage Meter Settings*, in accordance with 144.342.

d. Refer to 144.384b and .385d for payment procedures under the on-site meter setting program.

.34 EXAMINATION AND SETTING

.341 Examination

a. When meters are brought in for reset or examination in accordance with 144.222, they shall be examined to determine if they operate properly or have been tampered with.

b. Meters not reset within a 6-month period shall be examined, if practicable, by an employee not assigned to setting postage meters.

c. Meters shall be examined to determine whether the seal, register windows, break-off screws, top cover, lock cover, or other visible parts, have been broken or tampered with, and whether the die hub or meter drum is locked in home position. If evidence of tampering or breakage is found, retain the meter and promptly notify the postal inspector in charge.

d. Serial numbers shall be checked to see that they agree with those listed on Form 3610, *Record of Postage Meter Settings*, and that the total of the two registers equals the last entry in column 8 of Form 3610. If the meter is not registering properly, it shall be checked out of service in accordance with 144.35.

e. Instances where daily entries are obviously not being made should be brought to the attention of the supervisor, for consideration of license revocation. An entry shall be made on Form 3610 when an examination (but no reset) has been made.

.342 Setting

a. Prior to setting, meters shall be examined in accordance with 144.341.

b. Record descending and ascending register readings *before* reset and their sum on Form 3603, prepared in triplicate. Verify that the sum agrees with the last entry in column 8 of Form 3610 and column C of Form 3602–A.

c. Set the meter in accordance with the manufacturer's instructions.

d. Seal the meter using official USPS sealing pliers furnished by the manufacturer. Assure that the seal is properly affixed and thoroughly compressed. After sealing, the lead seal shall be checked to make sure it cannot move on the wire.

e. Record readings of descending and ascending registers' readings (after setting) on Form 3603 and complete the form.

f. If payment is to be made by withdrawal from a trust account, record the transaction on Form 25 maintained for that account by the employee setting the meter.

g. Post information from Form 3603 to Form 3610 and complete the Form 3610 entry.

h. The original copy of Form 3603 shall be given to the customer with the meter and Form 3602–A. Copy 2 of Form 3603 shall be sent to the holder of the cash book, and copy 3 shall be kept in the receipt book by the meter setter.

i. When a meter manufacturer's representative brings in a meter for initial setting or withdrawal, or reports a meter lost, stolen, recovered or found, he shall provide a copy of an installation or withdrawal form. This shall be forwarded to the office where the meter files are kept (see 144.37).

.343 Transfer of Units

When units are transferred from one meter to another, a note shall be made after the entries on Forms 3602–A for both meters and Form 3610 as required by 144.342, indicating the value of the units transferred and the serial number of the postage meter from (to) which the units were transferred. When additional units are purchased at the time of transfer, a receipt Form 3603 shall be prepared for the additional units purchased in accordance with 144.342.

.344 Setting Meter for Use at Another Post Office

The postmaster who serves the place where a mailer is located may set a meter to be used in paying postage on mail presented at another post office when it will be a convenience to the mailer. Before doing so the following requirements must be met:

a. The postmaster must obtain confirmation from the sectional center facility where the post office of mailing is located, that the post office of mailing has adequate facilities for handling the mail. This is intended to improve coordination between the Postal Service and the mailer as to which point of mailing can provide the best service by virtue of acceptance and transportation facilities. The postmaster shall request this confirmation by memorandum, describing the nature of the material to be mailed (letter size, flats, etc.), volume, classes and frequency of mailing, and the desired place of mailing.

b. The mailer must obtain a meter license from the post office where the mailing is to be presented. When the license is received, it must be presented to the mailer's local post office with the meter for setting. The license will be returned to the licensee.

c. The postmark die must show the name of the post office of mailing. A separate meter must be used for each post office.

d. Payment for each meter setting must be made by check or money order payable to the postmaster at the post office where mailings will be made. See section 142.1, Handbook F-1, regarding acceptance of checks. Checks must be presented to the local post office when the meter is set. Trust funds will not be utilized to pay for setting such meters.

e. The employee setting the postage meter will complete Form 3618, *Local Setting of Postage Meter Licensed at Another Office*, in duplicate. The original of this form with the check and a stamped, self-addressed envelope (furnished by the mailer for return of Form 3603) will be sent in a post office penalty envelope to the postmaster where the mailings are to be made. The duplicate shall be retained by the employee setting the meter. A record of each setting shall be entered on Form 3610 at the office where the mailings are made and the completed Form 3603 will then be sent to the mailer.

f. Mail must be presented at a designated receiving point in the post office by the mailer's representative. It may not be consigned to the post office in bulk by freight, express, or other carrier. The postmaster may not act as the mailer's representative and the Postal Service has no responsibility for the articles until they are actually accepted in the mail.

g. Matter sent to other post offices for mailing must be shipped in private containers. Post offices will not furnish mail sacks for this purpose. The total weight of containers such as cartons, crates, etc., which must be lifted by postal employees shall not exceed 70 pounds.

h. When the use of a meter is discontinued, the meter shall be presented to the post office where it was set, for checking out of service. Any postage adjustment will be made by the postmaster where the mailings have been made.

.345 Changing Place of Setting Meter

a. When the place of setting is changed to a different branch or station of the same post office, Form 3610 shall be retained by the office, branch, or station which previously set the meter. The readings on the registers and the office, branch, or station where future settings are to be made shall be recorded on Form 3610 and a horizontal line drawn under this last entry. Form 3610 shall be retained for 3 years.

b. A new Form 3610 will be prepared and sent to the office which will make future resets. It shall have one entry stating office, branch, or station which previously did resets and the register readings when transferred. When appropriate, the second office can obtain this information by telephone and prepare the new Form 3610.

.346 Reporting Receipts

In filling out the *Daily Cash Report* (Form 1412 or 1412-A, as appropriate), stations, branches, and main office window unit personnel shall list the total of payments received for deposit in metered postage trust accounts as trust accounts receipts. The total of cash receipts for meter resets shall be listed as *Metered Postage*, A/C 40220. Duplicate copies of the corresponding Forms 3603 and 3544 shall be attached to the *Daily Cash Report*. Trust fund transactions shall be recorded on a Form 3083, *Trust Accounts Receipts and Withdrawals*, and forwarded with the *Daily Cash Report* to the chief accountant (or person designated to keep the cashbook) with copies of corresponding Forms 3603.

.347 Meter Setting Supplies

The manufacturer furnishes the postmaster with instructions for setting various types of meters and provides keys to the locks on the recording mechanism, a stylus (used in setting meters), lead seals and a sealing device. Protect these items to prevent their use by unauthorized persons. Keep the instructions in the binder holding Forms 3610. Requisition additional copies of the manufacturer's setting instructions from the nearest branch or headquarters office of the meter manufacturer. Requisition additional supplies of lead seals from the headquarters office of the meter manufacturer. Requisition the following forms from your supply office when the first application for a postage meter license is received at your office:

3083	Trust Accounts Receipts and Withdrawals.
3601-A	Application for a Postage Meter License.
3602-A	Daily Record of Meter Register Readings.
3603	Receipt for Postage Meter Settings.
3604	Nonuse of Mailing Permit or Meter License.
3610	Record of Postage Meter Settings.
3616	Report of Quarterly Verification of Metered Mail.
3977	Duplicate Key Envelope.

.348 Custody of Meter Setting Keys

Accurate custody records of meter keys will be maintained by post offices. Duplicate keys will be kept in *Duplicate Key Envelope*, Form 3977, and safeguarded in accordanee with the instructions on the envelope. A semiannual verification of keys will be made, with the entry for each key being initialed and dated as evidence of verification. The loss of any key shall be immediately investigated and reported to the regional controller and the meter manufacturer. If a key is subsequently recovered, promptly notify the regional controller and the manufacturer. Keys no longer required at an office and emergency requests for meter setting keys will be sent to the sectional center.

.35 CHECKING METER OUT OF SERVICE

.351 Checkout Procedures

a. When a mailer brings in a meter which he no longer requires or in which the printing and recording mechanism fails to record its operations correctly, promptly check the meter out of service. Notify the manufacturer's representative to call for the meter, if the meter user has not notified him.

b. Unused postage in the meter may be transferred to another meter used by the licensee and registered at the same post office, or the postmaster may refund the amount in accordance with provisions of 147.25 if the total readings of the ascending and descending registers are equal to or less than the total settings shown on the Form 3610. If the total of the register readings of the defective meter exceeds the total settings, deduct excess from the amount shown in the descending register to determine the amount

of postage to be refunded or transferred. When a meter fails to lock out and prints stamps in excess of the amount for which set, collect the additional amount due from the mailer in cash. Annotate Form 3603 *Over Use Payment* in the amount of setting block. Record the descending and ascending register readings and their sum, the old control total, on Form 3603, prepared in triplicate. Enter the number of units paid for in the number of units set space and the new control. Post information from Form 3603 to Form 3610 with the annotation *Over Use Payment*. The amount of postage due will be determined by adding the last setting to the previous ascending register reading, and subtracting this total from the current ascending register reading. When the payment is for a meter licensed at another post office, Form 3618 will be used.

c. Clear the descending register to zero or to lowest possible setting, except when the meter is jammed in mid-cycle.

d. Record on Form 3610 the date, reason, and whether unused units were transferred to another meter, including the number of the meter and the number and value of units transferred. When units of postage are refunded, show amounts and method of payment.

e. Form 3602–A must be submitted by the user when the meter is checked out of service. Enter in the book, below the last entry, the readings of both registers before and after checkout, the amount of postage transferred, and the meter it was transferred to. Make an entry on Form 3602–A of the second meter indicating the amount of postage transferred and the meter it was transferred from. If the meter record book does not show the ascending and descending register readings, totals, and dates for the last three settings, enter these in the book from the information on Form 3610 and notify the supervisor. If Form 3602–A is not available, furnish a report to the manufacturer stating that fact, furnishing register readings, totals, and dates after each of the last three settings. State also the amount of postage transferred to another meter. Return Form 3602–A to the licensee unless the meter was faulty (see 144.352). The licensee shall keep Form 3602–A for at least one year after date of final entry.

f. Enter date of discontinuance on numerical file record card for each meter checked out of service.

g. Turn the meter over to the meter manufacturer's representative with the lock unsealed. Provide the manufacturer with Form 3602–A if the meter was faulty.

.352 *Checkout of Faulty Meter*

a. When a meter is presented for checkout because of mechanical failure, follow the procedures in 144.351.

b. Upon request of the manufacturer, furnish a photostat copy of Form 3610 for any meter checked out because of faulty operation. Send the copy directly to the manufacturer.

c. After examination of a meter withdrawn because of apparent faulty operation affecting registration, the manufacturer will return the meter record book directly to the postmaster with a detailed statement explaining why the meter failed to function properly. The manufacturer may also recommend an appropriate postage adjustment. Determine from the manufacturer's report and other facts what postage adjustment, if any, is necessary. Return the meter record book to the meter user. In case of doubt regarding proper postage adjustment, report all facts to the Rates and Classification Department, Office of Mail Classification, for instructions.

.36 REFUNDS FOR UNUSED METER STAMPS

Refunds for unused meter stamps will be made in accordance with 147.25.

.37 RECORDS—FILES

Three basic files shall be kept for meters and meter licensees: a file of meter licenses, an alphabetical file of meter licensees and meters currently in use by

them, and a numeric file of postage meters. These files will be maintained in the main post office. They shall not be duplicated at branches, stations, or other locations but shall be kept so that information is readily obtainable by telephone or other means. Additional information concerning accounting records for Postal Service owned meters is contained in 144.74:

a. *License File.* A central file shall be maintained of all currently licensed users of postage meters. This file shall consist of approved Forms 3601–A (top portion of form). Canceled licenses shall be maintained for a period of one year and then disposed of.

b. *Meter User File.* This file consists of cards filed alphabetically by licensee, listing the manufacturer and serial number of meters in use. As meters are withdrawn, delete from the list by simply drawing a line through the serial number. This file and the numeric file shall be kept where they will be available for use any time the post office is open for business or mail is being processed.

c. *Numeric File.* This file shall consist of cards for each meter set by post office, branch, or station. Cards shall contain the make, model, and serial number of the meter and list the name of the meter user, date of installation, and date when withdrawn or reported lost or stolen.

.38 ON-SITE METER SETTING PROGRAM

.381 *General*

a. This program provides for meter settings to be accomplished by a Postal Service clerk on a regular basis where the meter is licensed within the area covered by that post office. The on-site meter setting duties shall be made part of a duty assignment and posted and filled in accordance with the National Agreement by the senior qualified clerk.

b. To the maximum extent practicable, Forms 3610 of customers enrolled in the program will be maintained at a single postal facility of record. Meter setting employees will operate from that facility and only set meters of customers enrolled in the program whose records are maintained at that location. The program also provides for checking meters into or out of service at meter manufacturer's branch offices.

c. The schedule of fees for on-site meter setting follow:

Private Businesses:	*Meter Company Offices:*
$5.00 First meter on scheduled basis	$5.00 each meter on a scheduled basis
$7.50 First meter on emergency basis	
$2.50 Each additional meter	

.382 *Meter Setting Material*

Meter setting employees will have the following items:

Form 3544—*Post Office Receipt for Money*
Form 3602–A—*Daily Record of Meter Register Reading*
Form 3603—*Receipt for Postage Meter Setting*
Form 3618—*Local Setting of Postage Meter Licensed at Another Office*
Lead Seals
Lead Seal Validator (sealing pliers)
Diagonal Cutters
Meter Setting Keys
Postmaster's Restrictive Bank Endorsement Rubber Stamp

Meter setting material shall be checked in by a supervisor upon return and provided locked protection when not in use.

.383 *Procedures*

a. Books of receipts Forms 3603 and 3544, shall be issued solely for the on-site meter setting unit.

b. Prior to leaving the designated office of record, the meter setting employee shall record the unit value, manufacturer's code, meter number and old control total from Form 3610 on Form 3603 for each of the scheduled customer settings for that day. For emergency or unscheduled meter settings, the information shall be obtained by telephone.

.384 Setting Meter at Customers' Place of Business

a. The meter setting employee shall examine and set the meter(s) in accordance with procedures established, except for item f and g in 144.342. The transcription of the data from Form 3603 to Form 3610, as required by 144.342g, shall be done upon return to the postal unit by an employee other than the meter setting employee. Item 9 on both remaining copies of Form 3603 must be checked and initialed by the employee who posts the data to Form 3610. Section 144.342f, calling for payment by withdrawal from a trust fund account, does not apply. Checks only may be used for payment of on-site meter fees and postage.

b. Payment for postage set into the meter and for the meter setting fees involved must be collected prior to leaving the customer's place of business. Payment must be by check. If more than one meter is involved, payments for all postage and fees may be combined into one check. A single Form 3544 may be issued to cover all fees; however, a separate Form 3603 must be completed for each meter. All checks shall be immediately backstamped with the postmaster's restrictive endorsement. A clerk who accepts a check in accordance with established procedures shall not be financially liable for an uncollectable check. The original copies of receipts, Forms 3603 and 3544, shall be given to the customer.

.385 Setting Meters at Meter Company Branch Offices

a. *Installation of New Meter*

(1) Verify that the customer has received a license and has issued a check for amount of postage to be set on meter.
(2) Prepare Form 3618 in quadruplicate for amount of check.
(3) Set descending register for amount of check; lock and seal meter.
(4) Fill out front cover of Form 3602–A; make initial entry on Form 3602–A showing installation of meter.
(5) Give triplicate of Form 3618, Form 3602–A, license, and meter to meter company representative who will deliver to customer.
(6) Give quadruplicate of Form 3618 to meter company representative for his files.
(7) Retain duplicate of Form 3618 for post office record.
(8) Prepare penalty envelope for sending the following items to the postal unit where meter will be set:
  (a) Original of Form 3618
  (b) Check from customer for dollar value of the setting.
  (c) Pre-addressed return envelope (penalty)
(9) The appropriate supervisor in the postal unit where the meter will be registered for setting will insure that Forms 3603 and 3610 are prepared from information shown on Form 3618 and that the original of Form 3603 is sent to the customer. There will be no change in procedure for disposition of the other two copies of Form 3603. The check will be included on the 1412 or 1412–A on the day it is received.

b. *Checking Meters Out of Service*

(1) A letter addressed to the postmaster authorizing the checkout must be presented with the meter to be checked out.

(2) Check the serial number of the meter and phone the postal unit where the meter is registered to verify the control total. The meter company representative will furnish the postal clerk with the name of this unit. If the meter is out of balance, treat as directed in 144.35.
(3) Prepare Form 3618 in duplicate, write *checkout* in *Amount of Check* block and send original to postal unit of registration; retain duplicate.
(4) Reduce descending register to zero or to lowest possible reading.
(5) Complete a *postage meter checkout request form*, provided by the company, and retain two copies. Send these two copies and a letter authorizing checkout to postmaster of postal unit where the meter is registered.
(6) Give meter and remaining two copies of checkout request form to meter representative. Meter should be locked but not sealed.
(7) If refund is due and proper (no machine malfunction), refund will be by Treasury check mailed directly to the customer, unless the latter prefers to call at the post office for it. No refunds will be made by the *on-site* postal employee.

c. *Transferring Postage From One Meter to a New Meter*

The procedure for transferring postage from one meter to another is essentially the same as checking out one meter and installing another:
(1) Follow steps 1 through 6 in 144.385b, *Checking Meters Out of Service*.
(2) Set postage on new meter to correspond with amount taken off of old meter and lock and seal new meter.
(3) Prepare Form 3602–A for customer.
(4) If customer desires more postage on new meter than was transferred to it, an additional Form 3618 must be prepared in quadruplicate with the same distribution.
(5) The appropriate supervisor at the postal unit where the meter is registered for setting will insure that Forms 3603 and 3610 are prepared from information shown on Form 3618 and that the original of Form 3603 is sent to the customer. There will be no change in procedure for disposition of the other two copies of Form 3603. If there is a check, it should be included on the 1412 or 1412–A the day it is received.

d. *Payment*

(1) Payment of postage set into meters and for the fees involved must be collected prior to leaving the meter manufacturer's branch office. Fees shall be charged for each transaction as outlined in 144.381c. The schedule for fees shall be the same for each type of meter transaction performed.
(2) Payment for meter setting fees must be either by check or through an advance deposit account:
  (a) If payment is made by check, issue a Form 3544 to cover the fees.
  (b) If paid through an advance deposit account, the meter setting employee shall be responsible for determining that the account is in good standing before leaving the postal installation to which he is assigned.
(3) Procedures for collection of meter setting fees through advance deposit accounts:
  (a) The servicing employee will record each meter set (or checked out) on the meter setting log sheet; compute the setting fees

and sign the log. The meter manufacturer's representative will also sign the log.

(b) The original and one copy of the log will be given to the manufacturer's representative, the remaining copy will be turned in, with related Forms 3618 and check-out forms (if any), to the supervisor of clearance clerk at the setting employee's postal unit.

(c) The meter manufacturers will mail a monthly check to the address shown on the log covering all charges for the month. The advance deposit maintained must be adequate to cover the anticipated monthly fees. Log sheets will be supplied by the meter companies.

.386 *Reporting Revenue and Fees*

a. *Upon return to the parent unit the meter setting employee will:*

(1) Group Forms 3603 with related Forms 3544 and check so that fees and postage can be easily verified by the clearance clerk or supervisor.

(2) Group Forms 3618 with related Forms 3544 and checks for fees so that fees can be verified.

(3) Group Forms 3618 with related log sheets so that fees paid by advance deposit can be verified.

(4) Surrender to clearance clerk all Forms 3603, 3544, log sheets, and checks covering the value of Forms 3603 and 3544. Obtain a receipt on Form 1096, *Cash Receipt*.

(5) Mail Forms 3618 with related checks and pre-addressed envelopes to the postal unit at which the meter will normally be set.

(6) Turn in all meter setting equipment and receipt books to supervisors of clearance clerks. Obtain receipt for property (can be included on Form 1096).

b. *The supervisor or clearing employee will:*

(1) Verify accountability for all receipt forms.

(2) Verify funds to Forms 3603 and 3544; verify value of log sheets to Forms 3618. Release Forms 3618 and related checks to employee for mailing; give receipt for funds and log sheets on Form 1096.

(3) Post meter setting fees collected to A/C 40620, *On-Site Meter Setting Fees*, on Form 1412 or 1412–A; include meter postage with other customer meter funds in A/C 40220.

(4) Insure that data on Forms 3603 is transcribed to Form 3610.

(5) Forward log sheets to the accounting unit for collection of meter setting fees paid through an advance deposit.

c. *Accounting unit will:*

(1) Establish Form 25 for each meter manufacturer which elects to pay for meter setting charges through an advance deposit account.

(2) Post the initial deposit to the record.

(3) Credit the monthly checks received from the meter manufacturers directly into revenue in A/C 40620 without the need to make actual withdrawals and redeposits to the trust account.

(4) Maintain the office copy of the log sheets by account, by month, and insure that the monthly checks agree with the sum of the log sheets.

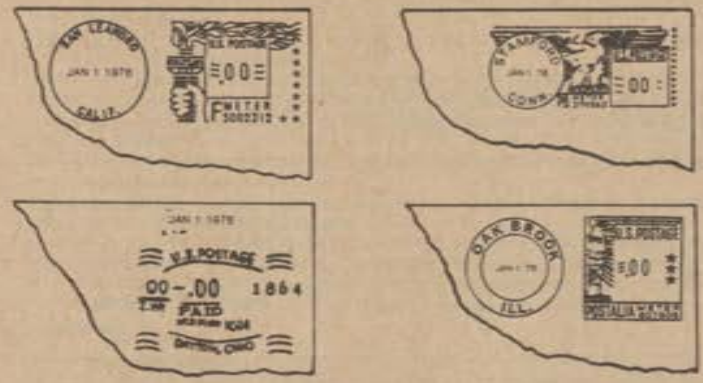
(5) Whenever monthly charges are greater than the amount of the advance deposit, notify the meter manufacturer that the deposit must be increased to an amount which will cover the anticipated monthly charges.

(6) Records of monthly charges and payments should be maintained.

144.4 METER STAMPS

.41 DESIGNS

The types, sizes, and styles of meter stamps are fixed when meters are approved by the Postal Service for manufacture. Only approved designs may be used. Some approved designs are illustrated below.



Official Mail (see Part 137)

.42 LEGIBILITY

Meter stamps must be legible and not overlap. Illegible or overlapping meter stamps will not be counted in determining postage paid.

.43 FLUORESCENT INK

The use of fluorescent ink is mandatory for postage imprints on letter-size metered mail effective July 1, 1973. Failure to use fluorescent ink may result in the revocation of the meter license. Letter-size mail is defined as being from 4¼" to 11½" long, 3" to 6⅛" wide, and .006" to .25" thick.

.44 METER STAMPS ON TAPE

When meter stamps are printed on tape, only tape approved by the Postal Service may be used.

.45 POSITION

Meter stamps must be printed or stuck in the upper right corner of the envelope, address label, or tag.

.46 CONTENT

144.46 Meter stamps must show the city and state designation of the licensing post office, meter number and amount of postage for all classes of mail. Upon approval of the licensing post office, a meter indicia may contain the name and state designation of its local classified branch, which sets the meter. This authorization does not apply to classified stations or contract stations or branches. ZIP Codes will not be used in customer's postage meter indicias. When it is necessary to print multidenomination meter stamps on more than one tape, the circle showing the post office or classified branch must appear on each tape.

.47 DATE OF MAILING

.471 Dates shown in the meter postmark of any type or kind of mail shall be the actual date of deposit except when the mailing piece is deposited after the last scheduled collection of the day. When deposit is made after the last scheduled collection of the day, mailers are encouraged but not required to use the date of the next scheduled collection.

.472 The month, day, and year must be shown in the meter postmark on all first-class and priority mail (heavy pieces), and on all registered, certified, insured, COD, special delivery, and special handling mail, except prepaid reply postage, whether the postmark is printed directly on the mailing piece or on a separate tape.

.473 The month and year must be shown on meter postmarks printed on a separate tape for second-, third-, and fourth-class pieces. The day may be omitted. Mailing pieces postmarked on a separate tape with only the month and year may be accepted during the month shown and through the third day of the following month when, in the judgment of the postmaster, the mailing was unavoidably delayed prior to its deposit with the Postal Service.

.474 The date (day, month, or year) is not required to be shown on meter postmarks printed directly on a second-, third-, or fourth-class mailing piece.

.475 The date shall not be shown on meter postmarks used to prepay reply postage in accordance with 144.112.

.48 HOUR OF MAILING

The hour of mailing may be shown only on first-class, or special delivery mail, and then only when it is mailed in time to be dispatched at the hour shown.

.49 AD PLATES

.491 Advertising matter, slogans and the postal markings specified in .492 may be printed with the meter stamps within space limitations. Licensees must obtain the plates for the printing of this matter from authorized meter manufacturers to assure suitable quality and content in accordance with the requirements of the Postal Service. The advertising and slogans must not be objectionable or misleading.

.492 The following postal markings relating to the class of mail are permissible: FIRST CLASS; PRESORTED FIRST CLASS; THIRD CLASS; BLK. RT.; NONPROFIT ORG.; FOURTH CLASS; AND PRIORITY MAIL. If a postal marking is to appear in the ad plate area, no other matter is to be printed. The marking must fill the entire ad plate area to the extent practicable. All words must be in bold, capital letters which are at least 1/4" in height or 18-point type and legible at two feet. Exceptions for small ad plates that will not accommodate any of the above markings will not be considered.

144.5 MAILINGS

.51 PREPARATION

The mailer must bundle, box, or otherwise package mailings of 5 or more letter-type pieces with the addresses facing in one direction. This prevents the pieces from becoming mixed with other mail which has to be faced, canceled, and postmarked in the post office. Properly prepared metered mail can go directly to distribution and thereby be expedited in dispatch. Metered mail not properly bundled, boxed, or otherwise packaged as required will be reported by telephone or personal visit to the mailer or his authorized agent. A record of this action will be maintained by the postmaster on Form 3749, *Irregularities in the Preparation of Mail Matter*. If the mailer or his agent disregards such reports and irregularities are repeated, the mail will be retained by the postmaster and the mailer immediately notified by telephone so that the mailing can be picked up for proper preparation before acceptance and dispatch. Each class and denomination should be bundled separately. Special delivery should always be bundled separately or located on the top of a bundle.

.52 PLACE OF MAILING

a. Metered mail, other than bulk mailings of third-class mail may be deposited in any street collection box, mail chute, receiving box, cooperative mailing rack, or other place where mail is accepted, which is under the jurisdiction of the post office shown in the meter stamp. To secure faster dispatch, metered mail should be deposited at the main post office or a station or branch thereof.
b. To expedite dispatch and as a convenience to meter users, limited quantities of special delivery and other first-class mail may be deposited at offices other than the one which appears in the meter stamp. A limited quantity is considered to be the quantity of mail a secretary might deposit in a mail receptacle on the way home from work.

.53 HANDLING OF METERED MAIL

.531 *Mailed at Stations and Branches*

At stations and branches where mail is not processed, keep metered mail separate from other types of mail insofar as possible so that the advantages of the separation are not lost at the time of processing. When the quantity warrants, place metered mail in pouches, sacks, or hampers, labeled *Metered Mail*. When the quantities are too small to be separately pouched or sacked, tie the pieces securely in bundles labeled *Metered Mail* so that they may be identified and promptly separated in the distributing unit from other types of mail.

.532 Postmarking

Do not postmark metered mail, except as required in 332.35 and 144.534.

.533 Distribution

Send metered mail to distribution points as soon as received. Distribute in order of priority of receipt regardless of time shown in postmarks or meter stamps.

.534 Examination

Examine mail while being routed for distribution to determine that it is properly prepared. This examination may be made by a selective check of the

pieces as they are distributed. Metered mail bearing the wrong date of mailing (see 144.47) will be run through a canceling machine or otherwise postmarked to show the proper date. Form 3749 will be used by postmasters to call irregularities to the attention of the mailer. If the same irregularity is repeated, the postmaster will notify the head of the firm or his authorized agent in writing. If a mailer disregards such notices on dating of mail, the postmaster may refuse to accept the mail, or if the mail has already been accepted, he may return the mail with instructions to enclose it in new envelopes bearing the correct date in the meter stamp.

144.6 SECURITY

.61 QUARTERLY VERIFICATION

a. The postal data center provides each post office with a quarterly meter control list of postage meters used for mailings at that post office. These listings should be checked for accuracy in accordance with section 236.4, Handbook F-1.

b. Area mail processing units and post offices which do initial distribution of originating mail will take a sampling of local originating metered mail (letters and parcels including those bearing Postal Service meter stamps) during a different day of each quarter. Sample sizes will depend on the number of meters under license at the office, the total volume of local originating metered mail, classes of metered mail, and the diversity of mailings. Five to twenty-five percent of the meters set at the office should be included in the sampling, with larger offices using the lower percentage figure and smaller offices the higher. This sampling is designed to:
   (1) Detect use of unauthorized meters
   (2) Detect altered metered stamps
   (3) Detect improper metered mail procedures by mailers, especially incorrect postmarks.

c. Employees making the sample shall be familiar with the requirements of part 144 and shall be provided with copies of Forms 3616 and 3749.

d. Local originating metered mail with other than a local postmark shall be listed on a separate Form 3616, a separate Form 3616 being used for each postmark.

e. Metered mail being sampled should also be examined for alterations or counterfeit impressions. Suspect impressions should be immediately reported to the supervisor. Alterations may be indicated by:
   (1) Peculiar tint of ink.
   (2) Smudged or uneven impressions.
   (3) Digits which are out of line or vary in size.
   (4) Impressions which appear to have been altered manually by pen and ink or other means.

f. Metered mail being sampled should also be examined for improper mailing practices such as wrong date and improper preparation. Form 3749 shall be prepared for each irregularity observed.

g. An employee who did not participate in the sampling shall check the Forms 3616 against the numeric listing of meters set by the post office. Discrepancies which cannot be resolved shall be reported to the regional controller.

h. Forms 3616 for mail having other than local postmarks shall be forwarded to the appropriate postmaster to determine if they are authorized. These Forms 3616 shall be filed with Forms 3616 developed during that office's quarterly verification. Postmasters shall report use of unauthorized meters to the regional controller.

i. The regional controller shall attempt to resolve reports of unauthorized meters by comparison with lists of stolen meters and by discussion with

meter manufacturers. Meters that are unauthorized or which have previously been reported stolen shall be reported to the Inspection Service and to the manufacturer. The reporting post office shall be advised of any action taken.

.62 EXAMINATION

Review Forms 3610 quarterly. If no settings have been made during the previous 6 months advise local meter licensees to bring in meters which have not been set within this period for examination as required by 144.341. When the meter is set at another office, request the office which sets the meter to have it called in for examination. The office where the meter is set will then advise the office where Form 3610 is maintained of the results of the examination, including register readings at the time of examination, so a suitable entry can be made on Form 3610.

.63 LOST AND STOLEN METERS

Report the loss, theft, or recovery of any lost or stolen meters immediately to the local postmaster, to the regional controller for the region in which the meter is licensed for use, and to the local police. Reports shall include the meter model and serial number; the date, location and details of the loss or theft; and a copy of the police report when applicable. Postmasters will cooperate with meter manufacturers to locate meter licensees that have moved without informing the post office or manufacturer. Postmasters should provide manufacturers, upon request, with the forwarding address, except as restricted by 261.23h.

144.7 POST OFFICE METERS

.71 CRITERIA FOR USE

Omnidenomination postage meters are assigned to parcel post and registry windows and postage-due units at post offices and classified stations and branches meeting the criteria in 641.444. Post-office-owned meters are not assignable to contract stations or branches.

.72 REQUESTS FOR METERS

Requests for postage meters shall be made in accordance with 641.444.

.73 OPERATION OF METER

.731 *Instructions by Meter Manufacturer*

A representative of the manufacturer will instruct employees how to operate the device at time of installation.

.732 *Keys*

a. Two different keys are needed to operate a postage meter. One key is required to unlock the meter operating lever and must be used each day the machine is operated. A different key, which is the same as the key used to open customers' meters at time of setting, is required to open the meter unit to set an amount of postage in the device. The manufacturer will not furnish an additional meter setting key if you already have one.

b. Duplicate keys are provided for the meter operating lever of each machine. One key will be kept in custody of the designated supervisor except during the period the meter is assigned to the meter operator. The duplicate key will be recorded and retained in protective custody.

.733 *Settings*

Meters must be set by an employee authorized to set customer's meters. A meter machine operator must never set his own meter. Record initial setting and all other information called for on Form 3609-PO, *Control for Post Office Meter*. Set each meter at least once each 6 months. Limit settings to multiples of $100.00.

.734 *Conversion to Postage Due*

a. Meters are converted to postage due use by installing a snap-in die plate which imprints the words *Postage Due* to the left of the postmark circle. Dies are furnished by the Western Area Supply Center, Parts Section, Topeka, KS 66601. Requisition on Form 4984, *Repair Parts Requisition*. Include the model of meter with all requests.

b. Requisition a portable meter stand to move the meter between postage-due units and receiving windows when it is used in a dual capacity.

c. To the maximum extent practicable, postage-due meter operators assigned to process advance deposit postage-due mail shall not handle cash.

.735 *Affixing Meter Stamps*

Sell meter postage for packages or parcels of all classes, and for occasional letters presented by mailers of parcels. Affix meter stamps to the mail in presence of mailer. Do not use a meter for quantities of letters or circulars. Do not sell meter stamps to be taken from the post office to be put on parcels elsewhere. You may sell to collectors, stamps of meters installed at parcel post and registry receiving windows provided the stamps are for small amounts and are for philatelic purposes only. Do not issue stamps showing ".00" in the indicia or for less than 5 cents. Do not sell postage-due imprints except to collect postage-due. A meter operator should submit unused meter stamps daily that are printed in error with Form 3533, *Application and Voucher for Refund of Postage and Fees*, to postmaster for full refund. Do not hold these stamps longer than one week in any case.

.736 *Ink and Tape*

Use only tape and red ink furnished by the Postal Service. Requisition from the supply center. Use green ink in meters used exclusively for postage-due mail. Green ink must be obtained from meter manufacturer or their local representative in accordance with local procurement authority in chapter 6.

.737 *Protection of Meter Heads*

Remove meter heads and place in a safe or locked cabinet overnight and at other times when operator is temporarily absent from his station and adequate surveillance cannot be maintained over the meter head to prevent its misuse by unauthorized persons.

.738 *Repairs*

Postage meters are guaranteed against all defects in materials and workmanship for 1 year after installation. Request nearest authorized manufacturer's representative for free service during the 1-year guarantee. For other repairs see part 623.

.739 *Slogan Ad Plates*

Except as provided in 144.734, do not use slogan die plates in post-office owned meters.

.74 ACCOUNTING

.741 *Employees Accountable*

a. Designate a supervisor or other employee not assigned to operating the meter as responsible to check the daily accountability of postage printed by a meter. He shall check the meter in and out of service daily for the operator and see that it is protected as provided in 144.737.

b. A meter operator is responsible for all postage printed by a meter while it is checked into his service; and for locking the machine and safeguarding the key during temporary absences. He shall use an informal receipt, or back of Form 3602–PO, when meter is turned over to a relief clerk during lunch or other short period.

.742 *Preparation and Verification of Accounting Records*

a. *Form 3602–PO.* This is an accountable form, serially numbered, used daily to record meter register readings and remittance of cash. Each day the meter operator shall record the meter number, unit or station name, date, and ascending and descending register readings. The designated supervisor shall verify the readings of registers and then turn over the lever key to the operating clerk. At the end of his tour, the meter operator shall record the ascending and descending register readings. The difference between the beginning and ending readings represent postage for which the meter operator is accountable. The designated supervisor must verify readings and initial Form 3602–PO when checking a meter out of service or when transferring it to another operator.

b. *Form 3609–PO*

(1) Form 3609–PO shall be retained by the director, office of finance, chief accountant or the individual in charge of the office cash records. The first meter setting shall be recorded directly on Form 3609–PO. All other settings are reported on Form 3602–PO and posted to Form 3609–PO.

(2) A copy of Form 3602–PO must be kept with Form 3609–PO and the total amount of postage posted once each accounting period on Form 3609–PO. The numerical sequence of Forms 3602–PO must be verified.

.743 *Ascending Register Revision*

The ascending register on reaching its maximum will revert to zero and start a new ascending record. When this occurs, the meter operator shall record the closing ascending register on Form 3602–PO as though it had not reverted by recording the carry-over digits in parentheses, as for example:

Descending register beginning	120000	Ascending register end	(1)0060000
Descending register end	40000	Ascending register beginning	9980000

Amount remitted: $800.00

When Form 3602–PO is received by the employee maintaining records on Form 3609–PO, appropriate notation of the date of reversion shall be made on the Form 3609–PO. Thereafter, readings of the ascending register will be recorded in the usual manner without addition of the digit in parentheses.

.744 *Remittance*

Money collected through postage meter operations must be remitted daily as near the end of the tour as possible. The original of Form 3602–PO must accompany Form 1412 or 1412–A *Daily Cash Report*. If Form 1412 or 1412–A is not used, send remittance with Form 3602–PO.

.75 USE BY CONTRACT STATIONS AND BRANCHES

.751 *Privately Owned Meters*

Although post-office-owned meters are not furnished to contract stations and branches, the contractor may at his own expense and option obtain a postage meter to collect postage on parcels presented by patrons.

.752 *Accountability*

a. Settings of meters for contract stations shall be made at the post office or classified station or branch designated by the postmaster.

b. If meter is used exclusively for mailings of customers, follow instructions in 144.733 and reduce stamp credit. Furnish Form 3602–PO to contractor and require submission of form with daily remission of meter funds.

c. If meter is also used by contractor to pay postage on his own mail, require payment for each setting at the time meter is set. Contractor will reimburse himself for meter postage applied to customers' parcels.

d. Account for all settings of non-post-office owned meters used at contract stations in the same manner as customer meters. See Handbook F–1.

144.8 [Reserved]

144.9 MANUFACTURE AND DISTRIBUTION OF POSTAGE METERS

.91 AUTHORIZATION TO MANUFACTURE AND LEASE

.911 *Qualification.* Any concern desiring authorization to manufacture and lease postage meters for use by mailers under 144.13 must qualify as follows:

a. Satisfy the U.S. Postal Service as to its integrity and financial responsibility.
b. obtain approval of at least one model postage meter incorporating all the mechanical features and safeguards specified in 144.92.
c. Have, or establish, and maintain under its supervision and control adequate manufacturing facilities suitable to carry out to the satisfaction of the Finance Department the provisions of 144.94. Such facilities shall be subject to inspection by representatives of the Finance Department.
d. Have, or establish, and maintain adequate facilities for the control, distribution, and maintenance of postage meters and their replacement when necessary.

.912 *Application.* Any person or concern seeking authorization to manufacture postage meters may make application to the Finance Department, in person or in writing. On qualification and approval, the applicant will be authorized in writing to manufacture postage meters and to lease them to mailers. The name of the manufacturer will be listed in the Postal Service Manual.

.913 *Suspension.* The U.S. Postal Service may require a manufacturer to suspend production and distribution of any or all of his models of postage meters pending investigation to determine whether his authorization should be revoked and the Postal Service will fully advise him of the facts which may warrant such action. The manufacturer will be given an opportunity to demonstrate or achieve compliance with all the lawful requirements within a reasonable, specified time limit.

.914 *Revocation.* Authorization may be revoked if the manufacturer engages in any scheme or enterprise of an unlawful character or fails to comply with any of the provisions of part 144.

.92 SPECIFICATIONS

Postage meters must incorporate all of the following mechanical features and safeguards:

a. A postage meter may be either the detachable portion containing the printing die and registering mechanism of a mailing machine, or it may be complete in itself. In either case, it must be suitable for the mailer to bring to the post office for setting.
b. A postage meter may be capable of printing one denomination of postage and registering the number of such impressions made (single denomination); or it may be capable of printing several denominations and registering either multiples of the smallest unit printed (multidenomination) or the currency value of the impressions made (omnidenomination). The printing die or dies, counters, and counter-actuating mechanism must be inseparable in the unit brought to the post office for setting.
c. In each postage meter, there must be two accurate and dependable counting devices, one ascending and registering the total imprinted, the other descending and registering the balance of the last setting remaining unused. The descending register must actuate a locking mechanism preventing further operation of the meter after the register has reduced to an amount less than the largest denomination printable in one operation or to zero. The descending register must be so constructed as to be easily set at the post office for any amount of postage or number of impressions within its capacity, prepaid by the mailer.
d. The entire mechanism must be encased in a substantial housing. The descending register must be accessible to the post office by means of a door equipped with a suitable lock and with provision for a post office seal. The ascending register and all other mechanism must be so shielded as not to be accessible even when the door is open. The readings of both registers must be easily obtainable at any time between operations, either by visibility through closed windows, or by imprint on tape or card, or by a combination of the two methods. The housing must be of such construction that it is impossible to alter the readings of the ascending register except by normal operation, or to gain access to the internal mechanism, except for setting the descending register as provided in 144.92c, without mutilation.
e. The printing die must either conform in design to one already in use or be approved by the Rates & Classification Department. It must include the serial number of the meter and identification of the manufacturer, and be so constructed or shielded that it is not practically possible without proper registration in the ascending and descending register to obtain imprints fraudulently.
f. The meter die must include a postmark to print the name of the city and state from which mail is dispatched and the date of mailing. The meter postmark may include a ZIP Code in accordance with 144.46. The postmark must be printed at the left of but adjacent to the denomination stamp and may be either included in an overall design with the denomination stamp or separated from it. Provision must be made so that the date may be either printed or omitted as required by the U.S. Postal Service on the various classes of mail. Provision may be made to print an hour of mailing either within or in a close position outside the postmark. Provision may also be made to print designations such as "Nonprofit Org.", and the like, adjacent to and in the same operation with the meter stamp. The denomination die must not be completely exposed at any time during the process of installing or removing postmark dies, daters, hour type, or special designation slugs or when changing the date.
g. Provision may be made in a meter for a *meter slogan* or *ad plate* to print to the left of and adjacent to the postmark. The size and position of a slogan or meter ad must be such that it will not interfere with or obscure the meter stamp or postmark and it must be possible to install the plate easily without exposing the meter stamp die. Plates must be made of suitable, durable material which will not soften or disintegrate while in use. They must be well fitted and so securely fastened to the printing mechanism that they will not become loose or detached or otherwise interfere with proper operation of a meter.
h. The entire mechanism must be of such solid, substantial, and dependable construction as to protect the U.S. Postal Service amply against loss of revenue from fraud, manipulation, misoperation, or breakdown.

.93 TESTING AND APPROVAL

.931 *Submission of Each Model.* Each model meter proposed for manufacture must be approved by the Rates & Classification Department, after being tested by the National Bureau of Standards, or the U.S. Postal Service Laboratory, at the expense of the manufacturer. A preliminary working model which meets the specifications in 144.92 may be submitted for tentative approval. No meters of any model may be distributed or used for payment of postage until a complete unit made to production drawings and specifications has been submitted, tested, and approved, except as may be specifically authorized for preliminary field testing.

.932 *Security Examination.* Each model meter proposed for manufacture will be examined to see that it incorporates all the mechanical features and safeguards required by section 144.92 and that it amply protects the U.S. Postal Service against loss of revenue.

.933 *Endurance Test.* Each model of meter proposed for manufacture must pass without error or breakdown the following described printing cycle endurance test which includes operation of the printing mechanism with proper registration of the selected postage value in both the ascending and descending registers:

a. For meters that operate at 100 or more printing cycles per minute—4 million cycles.——For meters that operate at less than 100 printing cycles

per minute (and cannot be used interchangeably on power base machines that operate at 100 or more printing cycles per minute)—2 million cycles.

b. For multi- and omni-denomination meters, postage value selection elements shall be tested for one-half million operations. A complete operation includes selection of a value and return to zero.

c. Balance register lockout operation shall be performed at the start of, at intervals during, and at the end of the printing cycle test.

.934 *Approval.* The U.S. Postal Service reserves the right before approval to require additional examination and testing as necessary to resolve any areas of doubt regarding the security or endurance characteristics of any meter which is proposed for manufacture.

.935 *Deposit of Specimen Meter.* One production model of each meter approved must be deposited with the Rates & Classification Department, and no changes affecting the basic features or safeguards may be made thereafter without Postal Service approval.

.936 *Tests After Approval.* Additional meters from current manufacture must be submitted to the National Bureau of Standards, or the U.S. Postal Service, for test, at the expense of the manufacturer, as may be requested by the Rates & Classification Department, U.S. Postal Service.

.94 SAFEGUARDS

.941 *Materials and Workmanship.* All meters must closely adhere to the quality in materials and workmanship of the approved production model and must be manufactured with suitable jigs, dies, tools, etc., to assure proper maintenance and interchangeability of parts.

.942 *Breakdown Tests.* At reasonably frequent intervals, the manufacturer must take meters at random from production and subject them to breakdown tests to make certain that quality and performance standards are maintained.

.943 *Protection of Printing Dies and Keys.* During the process of fabricating parts and assembling postage meters, the manufacturer must exercise due care to prevent loss or theft of keys or of serially numbered postage printing dies or component parts, such as denomination printing dies, which might be used in some manner to defraud the Government of postal revenues. All serially numbered printing dies produced should be accounted for by assembly into meters or by evidence of mutilation or destruction. Postage printing dies removed from meters and not suitable for reassembly must also be mutilated beyond the possibility of use, or be completely destroyed.

.944 *Destruction of Meter Stamps.* All meter stamps printed in the process of testing dies or meters must be collected and destroyed daily.

.945 *Inspection of New and Rebuilt Meters.* All new and rebuilt meters must be carefully inspected before leaving the manufacturer's meter service station.

.946 *Keys and Setting Equipment.* The meter manufacturer must furnish keys and other essential equipment for setting his meters to all post offices under whose jurisdiction his meters are licensed for use. These items must be protected and shall not be furnished to persons not authorized by the U.S. Postal Service to have them.

.95 DISTRIBUTION

.951 *Facilities.* Authorized manufacturers must maintain adequate facilities for the distribution, control, and maintenance of postage meters. All such facilities are subject to inspection by representatives of the Rates & Classification Department.

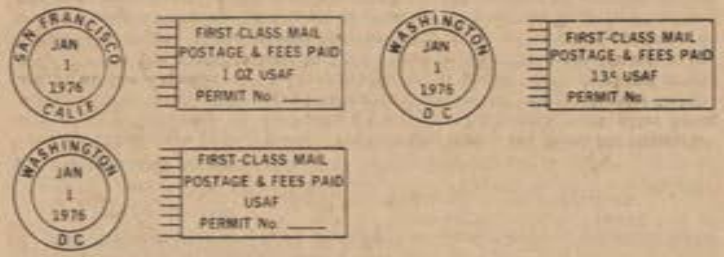
.952 *Controls.* Each authorized manufacturer is required to:

a. Retain title permanently to all meters of his manufacture except such as may be purchased by the U.S. Postal Service for use in post offices.

c. BULK THIRD-CLASS MAIL

d. SPECIAL RATES FOR AUTHORIZED ORGANIZATIONS ONLY

e. OFFICIAL MAIL (First-Class)



f. OFFICIAL MAIL (Fourth Class)
(Date and First Class Mail Omitted)

145.5 MAILINGS WITH PERMIT IMPRINTS

.51 MINIMUM QUANTITIES

Except as stated in 145.52, minimum quantities required to be mailed at one time are as follows:

a. *First-Class Mail.* 300 pieces of identical weight
b. *First-Class Presort Rate.* 500 pieces of identical size and weight.
c. *Second- and Third-Class Mail.* 300 pieces of identical matter, except 50 pounds or 200 pieces of identical (size and weight) third-class bulk mail.
d. *Fourth-Class Mail.* 250 pieces of identical matter.
e. *Fourth-Class Zone Bulk Rate Mail.* 300 or more pieces of identical weight.
f. *Special Fourth-Class Presort Rate.* 500 or more pieces of identical matter for the Level A rate. 2,000 or more pieces of identical weight for the Level B rate.
g. *International Mail.* See Publication 42, *International Mail.* 300 pieces of identical matter.

.52 EXCEPTIONS TO MINIMUM QUANTITIES

When any mailing consists of less than the required minimum, enter an explanation on the *Mailing Statement*, Form 3602. Exceptions may be made for the following reasons only:

a. *First-Class Mail.* Occasional exception for a mailer whose total daily mailings are not much more than 300 but who, to cooperate with the post office, presents a portion of his mailings early in the day.

b. *All Classes of Mail.* When a large mailing extends over two or more consecutive days and the last deposit, made to complete the mailing, is less than the minimum.

.53 PREPARATION FOR MAILING

The mailer must arrange all pieces with the address side facing the same way. It is recommended that the mailer separate the pieces to the finest extent possible in the manner prescribed by sections 125.32 and 134.43. Each class of mail must be separately presented with a separate *Mailing Statement*, Form 3602 or 3605. Fourth-class mailings on which postage is paid at different zone rates must be separated according to the postage paid on each piece.

.54 PLACE OF MAILING

Deposit mail at the post office that issued the permit or at a station or branch designated by the postmaster. Permit imprint mail shall be accepted at the main post office or at classified stations and branches where there is a separation of financial and mailhandling activities.

.55 MAILING STATEMENT

Prepare and sign a *Mailing Statement*, Form 3602 or 3605, for each mailing. The statement must be prepared by typewriter, ink, or indelible pencil to show the mailer's address, permit number, class of mail, number of pieces in the mailing, and weight of single piece. For third-class bulk mailings, additional information required by the *Mailing Statement* must be shown. If a receipt is desired, present a duplicate copy of Form 3602 or 3605, which will be initiated by the accepting employee after verification and returned to the mailer.

.56 PAYMENT OF POSTAGE

.561 *Prepayment in Full Required*

The mailer must pay for each mailing when it is presented at the post office, or make an advance deposit of enough to cover more than one mailing. Payments for postage or deposits must be made at points designated by the postmaster. These payments will not be accepted by employees handling the mail. Advance deposits may be made by mail. When the deposit becomes less than enough to pay for an entire mailing, an additional amount must be deposited before any mailings are made. Credit for postage is not allowed. Postage may not be paid partly in money and partly by postage stamps. Whenever the computation of postage results in a fraction of a cent in the total, the next higher even cent must be paid.

.562 *Receiving Money*

Window clerks who receive deposits must:

a. Accept money for postage, advance deposits, and fees. (See 145.11.)

b. Issue receipts on Form 3544 in triplicate, duplicate to the director, office of finance or chief accountant, and triplicate to the weigher.

.563 Confine verification of permit imprint mail to the principal weighing section if practicable. When conditions warrant, make verification at the branch or station accepting the mail. Accepting clerks at stations and branches shall telephone the principal weighing section prior to dispatch of the mail to ascertain if mailer has sufficient deposit on hand to cover postage charges.

.564 Branches and stations not authorized to make verification shall send permit imprint mail to the principal weighing section labeled to prevent the mail being taken direct to a distribution point.

.565 The verifying employee must:

a. Examine materials presented for mailing and, if necessary, open sealed pieces tendered as second-, third-, or fourth-class to be sure the materials are mailed at and qualify for the applicable postage rates. Sealed pieces mailed at first-class or priority rates may not be opened.

b. Weigh permit imprint mail and verify postage.

c. Verify mail is properly prepared. See 131.43, 131.5, and 135.25 for presort requirements.

d. Fill out the back of the mailing statement (Form 3602 or 3605) and at the same time, by carbon, prepare Form 3607. If the mailer requests a receipt, he must present a duplicate copy of the mailing statement which will be delivered to him after the back is filled out.

e. Send mail accompanied by Form 3607 to clearing point.

.566 Maintain only one ledger record, Form 3609, for each permit. Keep all Forms 3609 at the main office or other mail handling unit where the principal weighing section is located. The supervisor in charge of the weighing section will be responsible for the proper maintenance of all Forms 3609. Weighing section employees shall:

a. Record fees and advance deposits on Form 3609 from copies of Form 3544.

b. Record the postage charges on Form 3609 from each Statement of Mailing (Form 3602 or 3605).

c. Prepare daily Form 3083 and forward it to the director, office of finance or chief accountant with Forms 3602.

.57 POST OFFICE COMPUTATION OF POSTAGE

.571 *Random Samples*

Enough pieces will be selected at random from the entire lot to determine whether the whole mailing consists of identical pieces.

.572 *Weight of Single Piece*

Determine the exact weight of a single piece and the amount of postage required. When scales do not show exact weight of a single piece, weigh enough pieces to balance beam and divide total weight by number weighed.

Example: 20 pieces weigh exactly 3½ ounces.
3.5÷20=0.175 ounce.

.573 *Total Number of Pieces*

Ascertain the total number of pieces by one of the following methods:

a. Find the total weight in pounds, exclusive of tare. (For definition of tare, see 145.575.) Reduce the pounds to ounces and divide the total number of ounces by the weight of a single piece.

Example: Mailer's statement shows 1,240 pieces in mailing which weigh 13 pounds, 9 ounces. A single piece weighs 0.175 ounce.
Convert weight to ounces: 13×16+9=217 ounces.
217÷0.175=1,240 pieces.

b. Find the total weight, exclusive of tare, and the total weight exactly of 100 pieces in ounces and fractions of an ounce. Divide the total weight by the weight of 100 pieces. This will give the total number of hundreds and fractions of a hundred in the entire lot.

Example: Mailer's statement shows 124,400 pieces in mailing which weigh 1,360 pounds, 10 ounces. A single piece weighs 0.175 ounce.
Convert weight to ounces: 1,360×16+10=21,770
Weight of 100 pieces: 0.175×100=17.5
21,770÷17.5=1,244
1,244×100=124,400 pieces.

.574 Agreement with Mailing Statement

The result of either of these methods of computation should agree with the number of pieces shown on the statement of mailing. If they do not agree the matter will be taken up with the mailer and, if necessary, further examination and verification will be made.

.575 Tare

Tare includes sacks, cartons or other containers, hand trucks, skids, or similar pieces of equipment upon which the mail may be placed during the weighing operation. The standard weights for new sacks are as follows:

Sack	Material	Color	Weight Lbs.	Weight Ozs.
No. 1	Canvas	White	3	7
No. 2	Canvas	White	2	8
No. 2	Cotton	White	1	12
No. 2	Nylon	Brown	1	4
No. 3	Canvas	White	1	12
No. 3	Cotton	White	1	2
No. 3	Nylon	Brown		13

.576 Clearance

Designate a clearing point in the mailing division, separate from the weighing section, where an employee must check the mail with Form 3607 prior to distribution. Do not distribute mail not accompanied by Form 3607 until the form has been received from the weighing section. After comparing the number of sacks or outside bundles with the volume reported on Form 3607, the clearing section will remove Form 3607 and release the mail for distribution in sacks or hampers with identifying labels reading:

Weighing Clearance, Permit Imprint Mail from----------
(Unit or Station)

The clearing section employee verifying such mailings must sign Form 3607 in the space provided. Forward Forms 3607 to director, office of finance or chief accountant daily.

.577 Small Offices

At small offices which do not have a weigher or a chief accountant, the postmaster and employees designated by him must perform the weighing and financial duties following in principle the instructions in 145.54–.56 except that the use of Forms 3607 and 3083 may be omitted. The function of receiving cash deposits for permit imprint mailings should be separated, as much as possible, from that of weighing and maintaining Form 3609. The employee receiving advance deposits must forward the duplicate copies of Form 3544 to the employee maintaining the cashbook; triplicate to employee maintaining

Form 3609. When cash is paid for postage at the time of mailing, the amount of postage charged may be entered directly in the appropriate revenue account. In this case entries in the trust fund account are not required.

145.6 ADDITIONAL SERVICES

Postage may be paid by means of permit imprints on matter which is entitled to be registered, or sent as certified, insured, or COD mail.

145.7 IMPROPER USE OF PERMIT IMPRINTS

.71 DISTRIBUTED OUTSIDE THE MAIL AND AS ENCLOSURES

Since permit imprints indicate that the matter on which they appear has had postage paid thereon under the permit imprint system, they must not ordinarily appear on matter which has not had postage so paid thereon, as, for example, matter which is circulated by means other than mail or which is circulated as an enclosure with other matter either by mail or by means other than mail. See 139.312 for combination mailings containing enclosures which may have postage paid by permit imprint. Permit imprints may appear on address labels, wrappers, envelopes, and other containers, and on complete mailing pieces, which have not had postage paid thereon under the permit imprint system, provided it would be impracticable to omit the permit imprint, as, for example, when envelopes are shipped from a printer to a permit imprint permit holder.

.72 PLACE OF ACCEPTANCE

Permit imprint matter will be accepted for mailing only at the post office shown in the permit imprint except when company permit imprints are used as provided for by 145.33 or when arrangements for acceptance at other post offices are made under the provisions of 145.8.

.73 NONPERMIT MAILINGS

Permit imprints must be obliterated from matter which is mailed as nonpermit imprint matter prepaid with postage by means of stamps or meter stamps.

145.8 OPTIONAL PROCEDURE FOR ACCEPTING PERMIT IMPRINT MAIL

.81 OBJECTIVE

The purpose of this optional procedure is to provide for the acceptance of permit imprint mail using the minimum amount of space, time, and manpower, and utilizing the latest developments in mechanization, facilities, and transportation while maintaining adequate control of the collection of correct postage charges.

.82 PROCEDURE

Weighing of the entire mailing on scales is not required. Postage is computed from the mailers' *Mailing Statement*, Form 3602 or *Mailing Statement—4th Class Bulk Rates*, Form 3605, which must always show the total number of pieces. The total computed weight must also be shown when it is known that the minimum per piece postage charge will not apply.

.83 VERIFICATION

Sample pieces from each mailing shall be weighed by a post office employee, either at the mailers' plant or at the post office, to determine whether the pound or the minimum per piece postage charges apply. Post office employees may be sent on rotating assignments to the mailers' plants to weigh sample pieces and observe preparation of mail by mailers only when the mail is not to be delivered to the post office for dispatch or when considered necessary

and authorized in writing by Regional Postmaster General. Mailers must maintain for a three-year period, and make available for inspection and audit upon request of post office officials, all production and billing records relating to any particular mailing. A sample piece from the mailing must also be available.

.84 LIMITED USE OF OPTIONAL PROCEDURE

An optional procedure for items of identical weight must be authorized by the Regional Postmaster General. An optional procedure for items of nonidentical weight must be authorized by the Office of Mail Classification. It will be approved only when the mailers can make one or more of the following arrangements which are mutually beneficial to the mailers and the Postal Service:

a. Loading at the mailers' plant the major portion of the mailings into single or combination destination trailers with any remaining portion transported at the mailers' expense and risk from the plant to an acceptance place such as a special acceptance facility or sectional center facility designated by the Regional Postmaster General.
b. Transportation of the entire mailing at the mailer's expense and risk from the plant to the acceptance place designated by the Regional Postmaster General.
c. Merger by mailers of different varieties and classes of mailing pieces into direct sacks which could not be prepared if the pieces were mailed separately.
d. Unusual arrangements for which the Regional Postmaster General has obtained approval from the Office of Mail Classification, Rates & Classification Department.

145.9 EXPERIMENTAL NEGOTIATED PROCEDURES

Notwithstanding any other provision of the regulations of the Postal Service, the Office of Mail Classification may authorize contracts with individual mailers to provide for experimental methods of paying postage whenever the adoption of such methods would be in the best interests of the Postal Service. Such contracts may provide for surcharges to cover damages suffered by the Postal Service from the incorrect payment of postage.

Part 146

PREPAYMENT AND POSTAGE DUE

146.1 POSTAGE PAYMENT

.11 PREPAYMENT REQUIRED

Postage on all mail must be fully prepaid at the time of mailing, with the following exceptions:

a. Business reply mail, see 131.23, or metered reply mail handled as business reply mail, see 146.122.
b. Federal Government and free mail, see part 137.
c. Certain mail for the blind, see part 138.
d. Mail sent by members of the Armed Forces, see 131.7.
e. Letters and printed matter carried or delivered by vessels not regularly employed in carrying mail, see 131.8.
f. Keys and identification devices returned to owners, see 134.13.

.12 INSUFFICIENT PREPAYMENT

.121 Mail of any class, including that for which special services are indicated, received at either the office of mailing or office of address without any postage, will be endorsed *Returned for Postage* and returned to the sender without an attempt at delivery. If no return address is shown, or if the delivery and return address are identical, the piece will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.122 Metered reply mail, which is prepared in accordance with 144.112, except for the mailer's inadvertent failure to imprint a meter stamp on the envelope, will be treated as business reply mail (see 131.23), and will be delivered upon payment of postage and the corresponding business reply fee specified in 131.233.

.123 Mail of any class, including that for which special services is indicated (except registered mail—see 161.31), received at either the office of mailing or office of address without sufficient postage will be:

a. Marked to show the total deficiency of postage and fees.
b. Dispatched promptly to the addressee by means of the regular or special service indicated.
c. Delivered to addressee on payment of the charges marked on the mail. When quantity mailings of ten or more pieces are received at the office of mailing without sufficient postage, the mailer will be notified, without charge, preferably by telephone, in order that the postage charges may be adjusted before the mail is dispatched.

.124 When the addressee refuses to pay the deficient postage, and when the mail is undeliverable for any other reason, it will be handled as follows:

a. First-class mail bearing a return address will be returned to the sender and delivered on payment by him of the deficient postage.
b. Mail other than first-class bearing a return address will be returned to the sender and delivered on payment by him of the total of the deficient postage, the forwarding postage, if any, and the return postage.
c. All mail that does not bear a return address will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.13 POSTAGE ON MAIL INSUFFICIENTLY PREPAID

Postage stamps stuck to mail are canceled when the mail is first received in the post office. Postage stamps or meter stamps originally affixed to insufficiently prepaid mail will, when it is again presented for mailing, be accepted in payment of postage to the amount of their face value.

.14 CONTESTED CLASSIFICATION

.141 If a mailer disagrees with a classification decision made by a local post office, the decision may be appealed by the mailer, in writing, to the postmaster within thirty days. The postmaster will forward the appeal to his postal services center where a decision will be made on the appeal. An unfavorable decision by the postal services center may be appealed, in writing, within ten days following receipt of the decision. The appeal must be filed with the postmaster. The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U. S. Postal Service, Washington, DC 20260, who will issue the final agency decision.

.142 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

.143 Pending resolution of an appeal, the mailer may, by letter to the local postmaster, request to mail under a deposit arrangement. The mailer must deposit with the postmaster an amount adequate to cover postage at the higher rate. The difference between the amount deposited and a lower rate subsequently determined to be appropriate will be returned to the mailer if his appeal is sustained. If the appeal is denied, the deposit will not be returned; the applicable postage will be deducted from the deposit and entered in A/C 114 as postage revenue through the use of a postage-due invoice in lieu of postage due stamps. The customer will be requested to sign the invoice and will be given a duplicate. If a balance remains in the deposit after the postage has been deducted, it should be refunded if the customer so wishes.

146.2 MAILABLE MATTER NOT BEARING POSTAGE FOUND IN, PLACED UPON, ATTACHED TO, SUPPORTED BY, OR HUNG FROM, PRIVATE MAIL RECEPTACLES

.21 PENALTY

Whoever knowingly and willfully deposits any mailable matter such as statements of account, circulars, sale bills, or other like matter, on which no postage has been paid, in any letterbox established, approved, or accepted by the Postmaster General for the receipt or delivery of mail matter on any route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined not more than $300.

.22 COLLECTION OF POSTAGE

.221 Except as permitted in 156.58, any mailable matter not bearing postage found in, or upon, or attached to, or supported by, or hung from, the private mail receptacles described in 151.11, is subject to the payment of the same postage as would be paid if carried by mail. When such matter is found, it will be dated, initialed, marked to show the address where it was found and taken to the post office. If general distribution of identical pieces has been made on a route, only two copies, each dated, initialed and marked with the address where found, should be taken to the office along with a written

notation of the total number of identical pieces observed on the route. The postmaster shall have a memorandum prepared showing the details to support the claim of postage.

.222 If the person or firm or distributor responsible for, or who assists in, the impermissible use of the private mail receptacles is known, and is within the delivery area of the post office, the local postmaster shall make demand for the total postage chargeable on all pieces. If the pieces are found in the receptacles, the postmaster shall also inform the person or firm or distributor that the practice is a violation of the law. An equivalent amount of postage due stamps affixed to a sheet of paper and properly canceled as a receipt for money collected shall be given the person or firm. If payment is in form of uncanceled stamps or meter stamps, they will be affixed to a sheet, canceled and returned as a receipt for payment. No other receipt will be issued.

.23 REPORT TO OTHER OFFICE

If the person or firm or distributor responsible for the impermissible use of the private mail receptacles is located at another post office, send a sample piece with a report of the facts to the postmaster at that location with request that he take the action in 146.22.

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j. When customs clearance and delivery fees are erroneously collected.
k. When fees are paid for registry or insurance service on mail addressed to a country to which such services are not available, unless claim for indemnity is made.

.232 A partial refund shall be made when complete and legible unused meter stamps are submitted within one year from the dates appearing in the stamps. See 147.25. When the face-value of the stamps does not exceed $250.00, refunds of 90% will be made. When the face-value of the stamps exceeds $250.00, refunds will be made for the face value of the stamps less $10.00 per hour for the actual manhours required to process the refund, with a minimum charge of $25.00 deducted from the amount of the refund. The employee processing the refund will enter the following endorsement on the reverse of Form 3533:

I certify that (number) hours were required to process this refund. The certifying and witnessing employees will both sign this certification.

.233 When mail is returned at the request of the sender or for a reason not the fault of the Postal Service, any difference between the amount paid and the appropriate surface rate chargeable from mailing office to interception point and return will be refunded.

.234 On articles prepaid at airmail rates but actually transported by surface means, the difference between the postage computed at the airmail and surface rates is refundable. The fact that surface transportation was used must be confirmed.

.24 UNALLOWABLE REFUNDS

No refund will be made:
a. For an application fee to use permit imprints.
b. For registered, insured, and COD fees after the mail has been accepted by the post office even though it is later withdrawn from the mailing post office.
c. For loose unused adhesive stamps.
d. For adhesive stamps affixed to unmailed matter.

.25 METERS AND METER STAMPS

.251 *Postage Adjustments*

The postage value of unused units set in a meter surrendered to the post office to be checked out of service may be refunded or, if desired, an equivalent amount will be transferred to another meter used by the same license holder. If the meter is withdrawn from service because of faulty mechanical operation, a final postage adjustment or refund may be withheld pending report of the meter manufacturer of the cause of faulty operation. If the meter is damaged by fire, a refund or transfer of postage will be made only if the registers are legible, or can be reconstructed by the meter manufacturer.

.252 *What to Submit*

a. Unused meter stamps that are complete and legible, accompanied by an application on Form 3533 within 1 year from dates appearing in the stamps, will be considered for refund. Arrange the stamps so that all of one denomination are together.
b. If portion of stamp is printed on one envelope or card and remaining portion on another, fasten the two together to show that the two portions represent one stamp.
c. Meter stamps printed on labels or tapes which have not been stuck to wrappers or envelopes must be submitted loose.
d. Refunds are allowable for stamps on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed thereon.

e. Submit separately, with statement of facts, envelopes or address portions of wrappers on mail returned to sender from the mailing office marked *No such post office in State named, Returned for better address,* or *Received without contents* indicating no effort to deliver was made.

.253 *What not to Submit*

Do not submit:
a. Meter reply envelopes or cards paid at the proper rate of postage.
b. Meter stamps printed on labels or tape which have been removed from wrappers or envelopes.
c. Meter stamps without the name of the post office and State.
d. Meter stamps without the date printed on tape. (See 144.46.)
e. Meter stamps printed on mail which was dispatched from the mailing post office in regular course and returned to sender as undeliverable, including mail marked *No such post office in State named.*
f. Meter stamps on mail addressed for local delivery and returned to sender after directory service was given or effort was made to deliver.

.26 PROCESSING REFUND APPLICATIONS FOR BOX RENTS, MAILING FEES, AND POSTAGE PAID BY STAMPS AND PERMIT IMPRINTS

.261 *At Offices With 950 or More Revenue Units*

a. Review the application and supporting papers.
b. If a refund is due, complete the *Verification of Refund* on Form 3533.
c. Pay the applicant in cash from official funds on hand if practicable to do so and the refund is made in person.
d. Have the payee sign the receipt on Form 3533.
e. If requested, or if refund is to be mailed, pay by Treasury check, or, if less than $300, by no-fee money order in accordance with 237.233 Fiscal Handbook F-1, *Financial and Cost Controls.* Record the check or money order number on the receipt portion of Form 3533 instead of obtaining the payee's signature. When the amount of the refund is less than $2, a check or money order should not be issued unless the payee or his representative is physically unable to come to the post office.
f. Retain the receipted copy of Form 3533 in your files to support the office copy of the statement of account.
g. Destroy envelopes, wrappers, or other evidence submitted with the application, as provided in 147.272.a(4).
h. If the application is not approved, return it with the supporting papers and an explanatory statement to the applicant.
i. Enter the amount refunded in AIC 536(D), *Postage and Fees Refund,* as specified in *Handbook F-1.*

.262 *At Other Offices*

a. *Postage and Mailing Fees*
   (1) Handle the application in accordance with provisions in 147.261.
   (2) If no witness is available for signature in Part II, Form 3533, *Verification of Refund,* have payee sign in appropriate space.
   (3) Record the refund as a write-in entry on a blank line in the disbursements section of your cashbook, and show AIC 536(D), *Postage and Fees Refund,* for the number and title of the account as specified in Handbook F-1.
   (4) If the amount to be paid is greater than the $300 limit for money orders and the processing post office does not issue Treasury checks, send Form 3533 will all supporting papers and a statement certifying the claim to your sectional center postmaster.

Subchapter 150 COLLECTION AND DELIVERY

Part 151
GENERAL

151.1 PRIVATE MAIL RECEPTACLES

.11 DESIGNATION AS AUTHORIZED DEPOSITORY

Every letterbox or other receptacle intended or used for the receipt or delivery of mail on any city delivery route, rural delivery route, star route, or other mail route is designated an authorized depository for mail within the meaning of 18 U.S.C. sections 1702, 1705, 1708, and 1725. For the purposes of 146.2, 151.12, 156.44 and 156.58, the post is not part of the receptacle.

.12 USE FOR MAIL ONLY

Except as provided in 156.58, the receptacles described in 151.11 shall be used exclusively for matter which bears postage. Therefore, other than as permitted in 156.58, no part of a mail receptacle may be used to deliver any matter not bearing postage. This applies to items or matter placed upon, supported by, attached to, hung from, or inserted into, a mail receptacle. Any mailable matter not bearing postage and found as described above is subject to the same postage as would be paid if it were carried by mail. See 146.2 for procedures to be followed.

.13 CUSTOMER OBLIGATION IN MAINTAINING CLEAR APPROACH TO MAILBOX

Customer is responsible for keeping the approach to his mailbox clear to facilitate delivery. Where the approach to the mail receptacle located at the curb is temporarily blocked by a parked vehicle during normal delivery hours for the area, or snow or ice hampers the approach to the mailbox, the motorized city or rual carrier normally dismounts to make delivery. If the carrier continually experiences a problem in serving curbline boxes and where the customer who is able to control on-street parking in front of his mailbox does not take prompt corrective action after being properly notified, the postmaster may, with the approval of the sectional center manager, withdraw delivery service.

151.2 LOCAL ORDINANCES AND STATE LAWS

Postmasters are expected to report to regional offices any contemplated action by local or State authorities to enact or consider enactment of local ordinances or State laws that would adversely affect operating costs or performance of postal service.

Part 152
WHO MAY CARRY LETTERS

152.1 PRIVATE EXPRESS STATUTES

By a group of laws known as the Private Express Statutes Congress has generally conferred upon the Postal Service the exclusive right to carry letters for others over post routes.

152.2 IMPLEMENTING REGULATIONS: *QUESTIONS ANSWERED ON PRIVATE EXPRESS STATUTES*

The Postal Service's regulations under the Private Express Statutes are published in the Code of Federal Regulations, 39 CFR Parts 310 and 320.

These regulations take precedence over any inconsistent material in prior rulings and publications of the Postal Service, including Publication 111, *Restrictions on Transportation of Letters* (5th Ed. July 1967). The Postal Service has also published *Questions Answered on Private Express Statutes* containing answers to ten of the most frequently asked questions about the Statutes. Copies of the regulations or of *Questions Answered on Private Express Statutes* may be obtained from the Assistant General Counsel, Opinions Division, U.S. Postal Service, Washington, DC 20260.

152.3 GENERAL COVERAGE OF THE PRIVATE EXPRESS STATUTES

.31 DEFINITION OF *LETTER*

For purposes of the Private Express Statutes, a *letter* is defined as a message directed to a specific person or address and recorded in or on a tangible object. A *message* consists of any information or intelligence that can be recorded on tangible objects including, but not limited to, paper, in sheet or card form, recording disks, and magnetic tapes.

.32 EXCLUSIONS

Certain matter is excluded from the definition of the term *letter*, such as telegrams; checks and certain other instruments when shipped to, from, or between financial institutions; newspapers, and periodicals. (Other exclusions are described in the regulations.)

.33 PAYMENT OF POSTAGE

If the proper postage is paid, the letters may be privately carried without violating the Private Express Statutes. (The details to be complied with in cases of this kind are outlined in the regulations.)

.34 EXCEPTIONS

Letters may be carried privately and without paying postage under certain circumstances. The principal exceptions cover material transmitted with and relating exclusively to cargo; letters carried by the sender or the recipient, or by their regular salaried employees; and letters carried to or from a postal facility where they are to be or have been carried in the mail. (Details concerning these and other exceptions are found in the regulations.)

.35 SUSPENSION

A limited suspension of the Private Express Statutes permits the private carriage of certain defined data processing materials to and back from data processing centers, when the transmission is completed within 12 hours or by noon of the recipient's next business day, and when processing commences on materials sent to a processing center within 36 hours of receipt at the center. Carriers wishing to use this suspension to carry data processing materials for others must file a notice of their intention to operate on a form obtainable from the Private Express Liaison Officer, Customer Services Department, U.S. Postal Service, Washington, DC 20260. (Further details on this suspension are set out in the regulations.)

152.4 VIOLATIONS

Possible violations of the Private Express Statutes should be brought to the attention of the Inspection Service.

152.5 ADVICE ON THE MEANING OF PRIVATE EXPRESS STATUTES AND REGULATIONS

Members of the public and postal officials may obtain authoritative advice, including written advisory opinions, by contacting the Assistant General Counsel, Opinions Division, U.S. Postal Service, Washington, DC 20260.

154.6 DELIVERY TO PERSONS AT HOTELS, INSTITUTIONS, SCHOOLS, ETC.

.61 MAIL ADDRESSED TO PATIENTS OR INMATES AT INSTITUTIONS is delivered to the institution authorities, who in turn will deliver the mail to the addressee under the institution's rules and regulations. If the addressee is no longer at that address, the mail shall be redirected to his current address. If the forwarding address is unknown, the mail shall be returned to the post office.

.62 MAIL ADDRESSED TO PERSONS AT HOTELS, SCHOOLS, AND SIMILAR PLACES is delivered to the hotel or school. If the addressee is no longer at that address, the mail shall be redirected to his current address. If the forwarding address is unknown, the mail shall be returned to the post office.

.63 REGISTERED MAIL ADDRESSED TO PERSONS AT HOTELS AND APARTMENT HOUSES will be delivered to the persons designated by the management of the hotel or apartment house in a written agreement with the Postal Service. Form 3801–A, *Agreement by a Hotel, Apartment House or the Like*, MUST be executed for this purpose. If delivery of the registered mail has been restricted by the sender, it may not be delivered to the representative of the hotel or apartment house unless the addressee has specifically authorized this person in writing to receive his restricted delivery mail. The authorization may be made on Form 3849, *Notice of Mail Arrival or Attempted Delivery;* Form 3801, *Standing Delivery Order;* or by a letter to the postmaster.

154.7 CONFLICTING ORDERS BY TWO OR MORE PARTIES FOR DELIVERY OF SAME MAIL

.71 DELIVERY TO RECEIVER

Where persons make conflicting orders for delivery of the same mail, and they are unable to agree among themselves as to which of the parties may receive the mail, the mail may be delivered to a named receiver or third party unanimously agreed to by the disputing parties.

.72 REFERENCE TO REGIONAL COUNSEL FOR RULING

Where the disputing parties are unable to select a receiver, each party shall furnish the postmaster all available evidence on which he relies to exercise control over the disputed mail. If after receipt of such evidence the postmaster is still in doubt as to who should receive the mail, the postmaster will submit the case to his regional counsel for a ruling.

.73 DELIVERY OF MAIL IN ACCORDANCE WITH COURT ORDER

When the same mail is claimed by different persons, and a court decides to whom delivery should be made, the mail will be delivered in accordance with the court order.

154.8 DELIVERY OF PACKAGES

.81 HEAVY OR BULKY PACKAGES

Heavy or bulky packages of any class will be delivered as addressed if facilities are available.

.82 UNPROTECTED PLACES

Parcels will not be left on porches, steps, or elsewhere unprotected, except on the written order of the customer or when authorization for such delivery has been placed on the parcel by the mailer.

.83 MULTIPLE-FLOOR BUILDINGS

Parcel post, registered, insured, certified, and special-delivery articles will be delivered to the addressee or his authorized agent in person without regard to the floor on which his office or apartment is located. Cooperation of customers is requested, however, in making arrangements for mail to be delivered on the first floor.

.84 SECOND-ATTEMPT DELIVERY

If an ordinary parcel cannot be delivered on the carrier's first attempt, a notice will be left at the address indicating that the parcel is being held awaiting call. If the parcel is not called for, a second notice is sent after 5 days. If there is no response within 5 days after the second notice and no retention period is specified by the sender, the parcel will then be treated as undeliverable. When a retention period is specified, it is observed up to 30 days after the first notice. A second attempt to deliver will be made only if requested by the addressee.

.85 STREET-ADDRESS DELIVERY FOR BOX RENTERS

Parcel post mail for customers residing within the city delivery limits who receive mail through rented boxes will be delivered to a designated street address on written request.

154.9 DELIVERY TO MILITARY ORGANIZATIONS AND NAVAL VESSELS

.91 UNITS NOT OPERATING MILITARY POST OFFICES

Mail addressed to the Commanding General, Commander, Commanding Officer, staff sections and other officials by title, and personnel of military organizations, will be delivered to unit mail clerks or mail orderlies when such individuals have been designated on DD Form 285, *Appointment of Unit Mail Clerk or Mail Orderly* to receipt for all mail addressed to the unit for which he is designated. If the unit mail clerk or mail orderly has been designated on DD Form 285 to receipt for ordinary mail only, then registered, numbered insured, certified, and restricted delivery mail addressed to individuals by name may be delivered to the unit mail clerk or mail orderly only if authorized by the addressee in a letter to the post office, on Form 3849, *Mail Arrival Notice*, or Form 3801, *Standing Delivery Order*.

.92 UNITS OPERATING MILITARY POST OFFICES

All mail addressed to military organizations that operate military post offices will be delivered to the military postal clerk or an assistant postal clerk or to a postal finance clerk for the organization. Additionally, mail for other military organizations may be delivered to military postal clerks or postal finance clerks for further delivery when requested.

.93 IDENTIFICATION

Unit mail clerks, mail orderlies, postal clerks, and assistant postal clerks must provide proper identification to obtain mail. DD Form 285, properly completed showing classes of mail that the bearer is authorized to receive, with the military identification card, or Government issued identification bearing the individual's picture in the case of a civilian employee, will be required.

.94 RETURN RECEIPTS

Return receipts for registered, numbered insured, and certified mail shall not be completed by anyone other than the addressee.

Part 155

CITY DELIVERY

155.1 REQUIREMENTS FOR ESTABLISHING DELIVERY SERVICE

Consideration for establishing delivery service will be given when the following requirements are met:

a. A population of 2,500 or more within the area to be served, or 750 possible deliveries. (Postal population may vary greatly from the general census population because of different boundary interpretations and designations.)
b. Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or grounds cover more than one lot, all lots involved are considered completely built up.
c. Streets are paved or otherwise improved to permit travel of post office vehicles at all times without damage or delay.
d. Street signs are in place and house numbers displayed, where applicable.
e. Right-of-ways, turnouts, and areas adjacent to roads and streets are improved so that installation and servicing of boxes will not be hazardous to the public or postal employees.
f. Satisfactory walks for carriers where required.
g. Approved mail receptacles or door slots are installed at designated locations.

The requirements are essential to an efficient mail delivery service, and must be met before delivery is inaugurated in a community. In establishing delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

155.2 DELIVERY EXTENSION REQUIREMENTS

Delivery service extension requirements are the same as those listed in 155.1 with the exception of paragraph a. Methods of delivery for extensions are furnished in regional instructions. Door delivery service must have the final approval of the Regional Postmaster General or his designee.

155.3 REQUESTS FOR DELIVERY SERVICE

Requests or petitions to establish, change or extend delivery service must be made to the local postmaster. No formal petition is required. Postmasters will forward requests or petitions to establish service to the postal official designated by the regional office with a statement indicating whether the requirements in 155.1 are met.

155.4 MAIL RECEPTACLES

.41 OBLIGATION OF CUSTOMER

Customers of the carrier delivery service must provide mail receptacles or door slots. Business houses are not required to provide mail receptacles or door slots if they are open and someone is on hand to receive the mail when the carrier calls. Where an office building is equipped with an elevator, carriers will deliver to individual offices, provided they are open when the carrier arrives. If they will not be open, mail receptacles or door slots must be provided.

.42 DOOR SLOT SPECIFICATIONS

The clear rectangular opening in the outside slot plate must be at least 1½ inches wide and 7 inches long. The slot must have a flap, hinged at the top if placed horizontally, and hinged on the side away from the hinge side of the door if placed vertically. When an inside hood is used to provide greater privacy, the hooded portion must not be below the bottom line of the slot in the outside plate if placed horizontally, or beyond the side line of the slot in the outside plate nearest the hinge edge of the door if placed vertically. The hood at its greatest projection must not be less than 2$\frac{5}{16}$ inches beyond the inside face of the door. Door slots must be placed not less than 30 inches above the finished floor line.

155.5 OUT-OF-BOUNDS CUSTOMERS

Customers outside city delivery limits may be given delivery service if they erect boxes on the carrier's regular line of travel. Special delivery, parcel post, insured, certified, COD, and registered mail will be delivered to the residences of out-of-bounds customers, if the residences are not more than three blocks from the carrier's line of travel and passable walks have been constructed or the street is not impassable; otherwise, a notice will be left in the box requesting that the customer call for the mail. If an ordinary parcel is involved and it can be placed in the box, delivery will be made in that manner.

155.6 APARTMENT HOUSE RECEPTACLES

.611 *General*

Delivery of mail to individual boxes in a residential building containing apartments or flats occupied by different addresses—regardless of whether it is considered an apartment house, a family hotel, residential flats, or business flats in a residential area, and regardless of whether the apartments or flats are owned or rented—shall be contingent upon each such building:

(a) Containing three or more apartments or flats;
(b) Having a common building entrance; and,
(c) Having a common street number approved by appropriate local or municipal authorities;

And shall also be contingent upon:

(d) The installation and maintenance of mail receptacles approved by the Postal Service;
(e) The provision of one box for each apartment, including that of any resident manager or janitor, unless the management has arranged for mail to be delivered at the office or desk for distribution by its employees; and,
(f) The grouping of the boxes for the building at a single point readily accessible to the carrier.

The tenant's correct mailing address shall be the address of the entrance at which the mail receptacles are located, and should include the apartment number or designated mailbox number.

.612 *Exceptions*

a. *Apartment House Complexes.* If, however, more than one such building has the same approved common street number (as when all or several buildings in an apartment house complex have the same approved common street number), delivery of mail to individual boxes shall be contingent, not upon the grouping of the boxes for each building at a single point readily accessible to the carrier, but upon the grouping of all the boxes for the common street number at a single point readily accessible to the carrier, even though the boxes serve residents in more than one building.
b. *Two or More Entrances.* If, however, such a building has more than one entrance, delivery of mail to mail receptacles grouped at more than one entrance shall be contingent upon each entrance to which delivery is made serving three or more apartments or flats, and the assignment, by appropriate local or municipal authorities, of a different street number to each such entrance.

.62 MAIL RECEPTACLES

.621 *Mail Receptacle Responsibility.* Purchase, installation, maintenance, and replacement of mail receptacles, boxes, or parcel lockers, are not the responsibility of the Postal Service.

.622 *Improved Mail Receptacles.* Owners and managers of apartment houses, family hotels, or flats or complexes described above, which are equipped with obsolete apartment house mail receptacles, are urged to install up-to-date receptacles approved by the Postal Service to assure more adequate protection of the mail. When such buildings are substantially renovated, or remodeled to provide additional apartments, or a material change is made in the location of boxes, obsolete receptacles shall be replaced by currently approved receptacles.

.63 INSTALLATION, SPECIFICATIONS, AND APPROVAL

The conditions requiring installation, specifications for construction, installation procedures and approval procedures for manufacturers are covered in Publication 17, *Apartment House Mail Receptacles, Regulations and Manufacturing Standards.*

Part 156

RURAL SERVICE

156.1 RURAL STATIONS AND BRANCHES

.11 ESTABLISHMENT

Rural stations and branches, both personnel and nonpersonnel, are established and maintained in communities where a considerable number of people would be seriously inconvenienced if required to transact postal business with rural or star route carriers only, and where it is determined inadvisable to establish an independent post office.

.12 FUNCTIONS

.121 Personnel rural stations and branches accept, dispatch, receive, and deliver mail, including registered, insured, COD, and certified mail, issue money orders and sell stamps and stamped paper.

.122 Nonpersonnel rural stations and branches are self-service units which furnish essential mail services such as the collection and delivery of ordinary mail and sale of stamps. Services such as the sale of money orders, and the acceptance and delivery of certified, insured, registered, and COD mail are provided customers of nonpersonnel rural stations and branches by the rural carrier at the time he services the unit. Carriers are

.56 MORE THAN ONE FAMILY

More than one family, but not more than five families, may use the same box, provided a written notice of agreement, signed by the heads of the families, or by the individuals who desire to join in the use of such box, is filed with the postmaster at the distributing office.

.57 LOCKS

The use of locks on boxes is not required. If customers provide locks, the keys should be delivered only to the postmaster, who will assign them to the carrier. The carrier will unlock and lock the boxes when serving them. To facilitate the carrier's work, customers should, as far as practicable, adopt locks for each route of such pattern that a master key may be provided the carrier for unlocking the boxes.

.58 UNSTAMPED NEWSPAPERS

Rural boxes are to be used for mail only, except that publishers of newspapers regularly mailed as second-class mail may, on Sundays and national holidays only, place copies of the Sunday or holiday issues in the rural and star route boxes of subscribers, with the understanding that copies will be removed from the boxes before the next day on which mail deliveries are scheduled.

.59 BOXES THAT DO NOT CONFORM TO REGULATIONS

Rural carriers will report any boxes that do not conform to the regulations to postmasters, who will send to the owners of these boxes Form 4056, *Your Mail Box Needs Attention*, requesting that the irregularities or defects be remedied.

Part 157

STAR ROUTE BOX DELIVERY SERVICE

157.1 DESCRIPTION

Star route service provides for the transportation of mail between post offices or other designated points where mail is received or dispatched. Box delivery, collection service, and other mail service are also performed on a majority of routes. Every star route carrier will receive any mail matter presented to him, if properly prepaid by stamps, and deliver it for mailing at the next post office at which he arrives.

157.2 ESTABLISHMENT

.21 NEW SERVICE

Contracts for regular service are awarded after public advertisements. Temporary service may be established on short notice without advertising. Address requests or petitions for new routes to the director, logistics division, having supervision over the transportation of mail in the area involved.

.22 CHANGES

Changes in line of travel, extensions of service and schedules may be ordered by the director, logistics division, at any time. Address requests for changes and extensions to him.

157.3 BOX DELIVERY AND COLLECTION SERVICE

.31 SERVICE REQUIRED

Star route advertisements and contracts state whether box delivery, collection service, or other mail services are required and specify the area to be served. In addition to usual box delivery and collection service, on some routes the carriers are required to:

a. Sell stamp supplies.
b. Deliver registered, insured, certified, and COD matter.
c. Accept matter presented by customers to be registered, insured, certified, or mailed COD, and money with applications for money orders and give receipts.

.32 AVAILABILITY

Box delivery and collection service is provided without charge to customers. To qualify for service, a customer must:

a. Reside on or near a route on which box delivery and collection service is required.
b. Live at least one-fourth mile from a post office.
c. Provide and erect a suitable box or provide a suitable sack or satchel with post upon which it may be hung. Where a box is newly installed or a present box is being replaced, an approved rural-type box must be used. The name and box number of the owner must be neatly inscribed in letters and numerals not less than 1 inch high on the side of the box visible to the carrier as he approaches, or on the door if boxes are grouped.

d. Request, from the post office to which mail is addressed, delivery and collection service on Form 5431, *Star Route Box Patron Notice*. Star route customers residing between two post offices may receive mail service from that post office which is the one next preceding the customer's residence, or from either post office if there is a return trip. In addition, the customer may receive delivery from the post office from which the star route originates.

.33 DELIVERY OF MAIL

Mail matter addressed to a qualified customer of a star route will be taken by the carrier from the post office and deposited into the proper mailbox. If required by the contract, the carrier will deliver registered, certified, insured, and COD mail: Delivery of this mail will be made only when customer meets the carrier at the box or along the route. Parcel post packages too large to go into boxes may be delivered outside boxes, provided the addressee has filed with the postmaster a written request for delivery in that manner. Otherwise, notice will be left in customer's box to meet carrier on next trip. If delivery cannot be made by carrier, the mail will be held at the post office.

.34 COLLECTION OF MAIL

Mail matter properly stamped and placed in a mailbox for dispatch must be collected by the carrier and deposited in the next post office at which the carrier arrives, unless otherwise directed by the Postal Service. Mail collected on the route, addressed for delivery on that part of the route still to be covered before reaching the next post office, will be delivered on the day of collection. The carrier will cancel the stamps before delivery by writing across them the name of the post office last served, the State, the date, and the number of the route. Bulky mailable matter, properly prepared and stamped, will be collected by the carrier if placed on or near the box. Money left in mailboxes for the purchase of stamps will be at the risk of the customer.

157.4 LOCATION OF BOXES AND RECEPTACLES

Mailboxes and approved sacks or satchels must be placed where they protect the mail and may be conveniently served by the carrier without leaving his vehicle. They must be located on the right side of the road in the direction of travel, when required by traffic conditions or when driving to the left to reach the boxes would constitute a violation of traffic laws by the carrier. In such cases, customers desiring service on both outward and return trips of carrier must furnish a box, sack, or satchel on each side of the road.

157.5 DUTIES OF POSTMASTERS

Postmasters will:

a. Withhold delivery of registered, insured, certified, and COD mail to carrier, unless contract requires that the carrier deliver such mail.
b. Not deliver mail to carrier outside of regular lock pouch before it has reached the post office to which it is addressed.

157.6 DUTIES OF CARRIERS

If the contract requires that the carrier case his mail, he must:

a. Accept mail addressed to customers of the route, from the postmaster, and arrange it in order of delivery.
b. Prepare and maintain a list of the names of the customers served, arranged in alphabetical order with the box number opposite each name.
c. Markup and forward mail for customers on his route who have filed a change of address order and make appropriate entry in the roster book.

157.7 SALE OF STAMPS AND STAMP SUPPLIES

If contract requires carrier to sell stamps and stamp supplies, a fixed credit will be provided by the postmaster at the head of the route. Where the carrier serves customers who receive mail through other offices on the route, the carrier will replenish his fixed credit at those offices in amounts representing sales made by him to customers served through these offices.

Part 158

FORWARDING MAIL

158.1 ORDER TO CHANGE ADDRESS

.111 *Forwarding Instructions*

File Form 3575, *Change of Address Order*, which is available at any post office or from any carrier. A written and signed order or a telegram sent by the customer, his agent, or person in whose care mail will be addressed is acceptable. Furnish old and new addresses. A change of address may not be filed with the Postal Service for mail bearing an employee's name addressed to the place of employment either during or after the termination of the employment relationship. Such mail is delivered in accordance with 154.4. A former employee may leave a forwarding address with the former employer for the purpose of having mail redirected to the former employee under the provisions of 158.6.

.112 *Forwardable Mail*

Mail received at the old address will be handled as follows:

a. First-class, and priority mail will be forwarded.
b. Official mail described in Part 137 that is sent as first-class, or priority mail will be forwarded.
c. Second-, third- and fourth-class mail will be forwarded when specifically requested by the order.
d. Mail addressed to *Occupant* or *Postal Customer* Will NOT be forwarded.
e. All third- and fourth-class mail for which the sender has guaranteed to pay the forwarding postage will be forwarded.
f. Mail bearing specific instructions of the sender DO NOT FORWARD will not be forwarded.

.113 *Pledge To Pay Forwarding Postage*

The order to forward mail constitutes the pledge of the addressee to pay forwarding postage. When an addressee who has pledged to pay forwarding postage refuses to pay the postage due, the postmaster must send Form 3546, *Notice to Change Forwarding Order*, to the postmaster at the old address requesting him to discontinue forwarding mail of the class refused.

.114 *Marking Forwarded Mail*

a. The forwarding employee at noncentral markup post offices will draw a line through the original address, without obliterating original address or postmark. Mark the new address, if known, and the mail is forwardable, or mail is second-class and requires Form 3579. See 158.22. Always include the ZIP Code as part of the new address.
b. Forwarding employees at central markup post offices will affix a yellow forwarding label, which supersedes any other mailing address on the mail piece, below the original mailing address. Lining out the original mailing address is discontinued. EXCEPTION: When an addressee moves more than once in a 12-month period, the original mailing address and subsequent forwarding labels except the one required to get the mail piece to the final point of delivery will be lined out.
c. Rate for collection of postage from the addressee all second-, third-, and fourth-class mail forwarded to another post office, EXCEPT official mail described in Part 137. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for forwarding postage accruing on official mail.

d. When articles prepaid at the rate in 135.123, 135.13, or 135.14 are forwarded, charge postage at the same rate. For catalogs prepaid at the rates in 135.121 compute return postage at the rates in 135.123.

.12 REGISTERED, CERTIFIED, INSURED, AND COD MAIL

.121 Conditions

A *Change of Address Order* for ordinary mail will cover registered, certified, insured, and COD mail unless the sender has given other instructions or unless the addressee moved outside the United States. The sender's instructions should be written or printed on the envelope or wrapper. Examples: *Do not forward; If not accepted within ____ days return to sender.* Exceptions:

a. COD mail will not be forwarded to the Canal Zone nor to overseas military post offices.

b. Domestic registered articles mailed outside the United States and addressed for delivery in the United States will not be forwarded to the Canal Zone if the postage indicates the articles were valued at more than $1,000. Articles mailed in the Canal Zone addressed for delivery in the United States will not be forwarded to any place outside the United States if there is reason to believe the value exceeds $1,000.

c. Insured and COD parcels that have mailers' instructions to abandon or to sell perishable items, written or printed on the envelope or wrapper, will be treated according to the instructions. Examples:

Do not forward or return. If not accepted within ____ days, treat as abandoned. Notify mailer of final disposition.

Do not forward or return. If undelivered after ____ days, sell contents to highest bidder and remit proceeds, less commission, to mailer.

Do not forward or return. If undeliverable after ____ days, destroy. Notify mailer of final disposition.

A commission of 10 percent, but not less than 25 cents, is retained by the Postal Service from the amount for which perishable items are sold.

d. COD mail may have written or printed on it a request that it be forwarded to a new addressee. The name and address of the new addressee must be shown in a bordered space with instructions that the mail be delivered either with or without the collection of COD charges.

.122 Forwarding

Do not change the name of the addressee or sender. Cross off the name of your office, add the new address and ZIP Code number, mark the piece *Forwarded*, postmark it, and dispatch under the original number. If a return receipt is attached to the article, forward it also. Show the particulars of forwarding on Form 3849 and file the form, or make entry in Form 3850 showing this information.

158.2 TIME LIMIT OF CHANGE OF ADDRESS ORDER

.21 TIME LIMIT SPECIFIED BY ADDRESSEE (Not to Exceed 1 year)

State beginning and ending dates in the change of address order. The original order should be canceled when the addressee returns to his old address or moves to another permanent address within the specified period.

.22 TIME LIMIT NOT SPECIFIED BY ADDRESSEE

.221 Records of permanent change of address orders, other than those subject to 158.23, are held one year for forwarding purposes from the end of the month in which the change becomes effective. Exception: Address changes to a post office box at the same post office, as indicated on Form 1093, *Application for Post Office Box*, shall be honored indefinitely. The order is not renewable. Mail may continue to be forwarded beyond the 1-year period if the new address is known to the forwarding employee.

.222 All post offices shall retain change of address orders for a period of one year from the end of the month in which the change becomes effective for administrative purposes, providing mailing list service (see 122.5) and releasing address change information to the public under provisions of the Freedom of Information Act.

.23 CHANGE FROM GENERAL DELIVERY AT CITY DELIVERY OFFICE

.231 To Permanent Local Address

Record of change of address orders without time limit will be kept 6 months.

.232 To Other Than Permanent Local Address

Record of change of address orders without time limit will be kept 30 days.

158.3 POSTAGE FOR FORWARDING

.31 CHANGE IN LOCAL ADDRESS

If a change is made to an address served by the same post office, all first-, second-, and fourth-class mail and third-class mail of obvious value will be delivered as directed. Additional postage will not be required. When the change of address is to a post office box at the same post office, all mail will be transferred to the box in accordance with instructions shown on Form 1093.

.32 CHANGE TO ANOTHER POST OFFICE

Mail forwarded to another post office is subject to additional postage as follows, to be computed the same as if the piece were originally mailed at the office from which it is forwarded:

a. *First-Class Mail weighing* not more than 13 ounces, including postal and post cards, is forwarded without charge when postage has been fully prepaid by the sender. No additional charge is made for forwarding first-class mail weighing not more than 13 ounces that is not fully prepaid, but any amount shortpaid at the time of original mailing will be collected on delivery.

b. *Second-Class Publications* are subject to additional postage for forwarding at the second-class transient rate computed on each individually addressed copy or package of unaddressed copies.

c. *Controlled Circulation Publications* are subject to additional postage for forwarding at the single-piece third- or fourth-class rate according to weight.

d. *Third-Class Mail* is subject to collection of additional postage for forwarding at the applicable rate of postage.

e. *Fourth-Class Mail* is subject to the collection of additional postage for forwarding at the applicable rate of postage.

f. Priority mail (heavy pieces) which includes all mail weighing over 13 ounces with postage prepaid thereon at the rates provided by 136.11, is forwarded by air and additional postage at the applicable rate in 136.11 between the forwarding and the delivery office will be collected on delivery.

g. *Registered, Certified, Insured, COD, and Special Handling Mail* is forwarded without the payment of additional fees, but the ordinary forwarding postage charges, if any, must be paid. Such mail will not be forwarded to a foreign country. See 166.46 for forwarding special delivery mail.

158.4 ADDRESS CHANGES OF PERSONS IN U.S. SERVICE

All first-, second-, and fourth-class mail and third-class mail of obvious value addressed to persons in the United States service (civil and military) serving at any place where the United States mail service operates, whose change of address is caused by official orders, will be forwarded until it reaches the addressee. No additional postage will be charged. Second-, obvious value third-, and fourth-class mail and priority mail so forwarded are endorsed by the forwarding office *Change of Address Due to Official Orders*. This provision for free forwarding from one post office to another applies to mail for the

members of the household whose change of address is caused by official orders to persons in the United States service. (See 122.813 and 122.823 concerning dependents residing with military personnel.) Exception: Second-class mail will not be forwarded between the U.S. and overseas APO addresses by military authorities. Copies of publications addressed to an APO for military personnel transferred to overseas assignments will be endorsed by military personnel *Forwarding Prohibited, Addressee Assigned Overseas* and returned to the post office for disposition. Copies of publications addressed to military personnel at their APO addresses who have been transferred to the U.S. will be endorsed by military personnel *Forwarding Prohibited, Addressee Returned to the U.S.* and returned to the military post office for disposition. Second-class mail having FPO addresses may be forwarded to or from the U.S. and overseas for a period not to exceed 60 days when requested by individual addressees. Additional treatment of second-class mail shall be as outlined in 159.22.

158.5 CHANGE IN POST OFFICE SERVICE

.51 ADDRESSED TO A DISCONTINUED POST OFFICE

All first-, second-, and fourth-class mail and third-class mail of obvious value addressed to a discontinued post office may be forwarded to any other post office designated by the addressee without additional charge when the office to which such mail is ordered sent by the Postal Service is not convenient for the addressee.

.52 FORWARDED DUE TO CHANGE IN RURAL DELIVERY SERVICE

Customers of any office who, on account of the establishment of or a change in rural delivery service, receive their mail from the rural carrier of another office may have their first-, second-, and fourth-class mail and third-class mail of obvious value sent to the latter office and delivered by rural carrier without a new prepayment of postage, provided they file a written request with the postmaster at the former office.

.53 ADDRESSED TO BOXHOLDER

Mail addressed to post office, rural route, or star route boxholder will be delivered to those customers residing in the affected area until June 30 following establishment or conversion to city delivery service or for a period of 90 days, whichever is longer.

158.6 REFORWARDING

The address (but not the name) may be changed and the mail reforwarded as many times as necessary to reach the addressee. Each time second-class mail, third-class mail of obvious value, or fourth-class mail, and priority mail weighing over 13 ounces, is reforwarded, it is charged additional postage at the appropriate rate.

158.7 SUMMARY OF PROCEDURES FOR HANDLING UNDELIVERABLE MAIL (EFFECTIVE DECEMBER 28, 1975)

FORWARDING						APPLICABLE RATES: a. Priority Zone Rate between forwarding and destination PO. b. Transient Rate. c. 3rd or 4th Rate, as applicable. d. 3rd single piece. e. Applicable 4th. f. Postcard Rate or Service Fee, as indicated.	RETURN					
First class up to 13 ozs. incl. Postal and postcards	Priority mail (1st over 13 ozs.)	Second class	Controlled circulation	Third class	Fourth class		All 1st & priority mail	Postal and postcards	Second class	Controlled circulation	Third class up to 2 ozs. incl.	Third class over 2 ozs. Fourth class
	a	b	c	d	e	←---RATES---→		f	b	c	d	e
A	D	FG	FH	J		No Markings	B	L	G	H	O	
						Ret. Post. Guar.		M			M	
				IE		Fwdng & Return Postage Guaranteed					ME	
AC	DC			ICE		Address Corr. Req. Fwdng & Ret Post Guar		N			N	K
				JC		Address Corr. Req. Return Post. Guar						
		FG		JC		Address Corr. Req. or obsolete wording Return Requested			G			P

KEY

A — Forward free.
B — Return free endorsed with reason for nondelivery.
C — Send address correction to mailer, collect address correction fee.
D — Forward at rate "a."
E — Sender must pay Fwdng & Return Postage if addressee refuses mail.
F — For 3-month Period: Transfer locally free and forward out of town postage due if addressee guarantees forwarding postage. Furnish #3578 to addressee. After 3 months, or if not forwardable originally, apply G, H, below as appropriate.
G — Send address correction together with old address, collect address Correction fee.
H — Return complete copy with address correction attached. Collect "b" or "c" rate plus address correction fee.
I — Transfer locally free, forward out of town at applicable rate.
J — Transfer locally free if endorsed *Return Postage Guaranteed* or if addressee has guaranteed forwarding postage. Forward out of town only if addressee has guaranteed forwarding postage.
K — Return at applicable rate plus fee for address correction attached.
L — No return—treat as waste.
M — Return at applicable rate, marked NOT DELIVERABLE AS ADDRESSED—UNABLE TO FORWARD only.
N — Return endorsed with reason for nondelivery, collect address correction fee.
O — If of obvious value, return at applicable rate—otherwise treat as waste.
P — If of obvious value, return at applicable rate plus fee for address correction—otherwise send address correction and collect fee.

.25 FOURTH-CLASS MAIL

.251 Undeliverable fourth-class mail will be handled according to the instructions in 159.24 for handling third-class mail weighing more than 2 ounces, except that fourth-class rates apply wherever third-class rates are mentioned. Address correction and return and forwarding services provided for third-class mail may be used for fourth-class mail.

.252 Return to the sender, or the person designated by him, undeliverable mail having obvious value or bearing the words *Return Postage Guaranteed If Undeliverable*. (If the mail bears instructions of the sender to destroy or abandon, follow the procedures in 159.257.)

.253 When fourth-class mail of obvious value bearing a postage meter stamp of a private meter user is received unaddressed and without return address and delivery cannot be made, return the piece to the mailing office. The office of mailing shall deliver the piece to the meter licensee on payment of the return postage.

.254 Compute and mark the charge on each piece. In determining the amount due compute postage at the applicable rate between the returning office and the office to which the piece is returned. If the piece has been marked to show that forwarding postage is due, add this amount to the return charge.

.255 When articles correctly prepaid at the rates in 135.121, 135.13, or 135.14 are returned, compute the return charge at the same rate or 25 cents whichever is higher. For material prepaid at the rates in 135.122, compute return postage at the rates in 135.121.

.256 If effort has been made to deliver a piece addressed for local delivery, do not return it to the sender without payment of the applicable charge.

.257 When undeliverable domestic ordinary, insured, or COD mail; or when undeliverable ordinary, insured, COD, or registered articles of domestic origin and foreign address bear instructions of the sender to abandon or destroy, hold for the prescribed retention period and then:

a. Strip the mail and dispose of the contents as prescribed in 159.72.
b. Notify the sender on Form 3858, *Notice of Undeliverable or Abandoned Mail*, relative to insured and COD mail only.
c. Treat packages of foods, drugs, and cosmetics in accordance with 159.28.

.26 PRIORITY

Priority mail (heavy pieces) will be returned by the same transportation as first-class mail at no additional charge. Priority mail (heavy pieces) includes all mail weighing over 13 ounces which has postage prepaid thereon at the rates provided by section 136.11.

.27 REGISTERED, CERTIFIED, INSURED, AND COD

.271 *Notice (Registered and COD Mail only)*

a. When registered mail is undeliverable as addressed and cannot be forwarded, a notice is sent to the mailer on Form 3858 showing the reason. By completing the form and returning it immediately in an envelope bearing first-class postage, the mailer may tell the postmaster what to do with the mail. Mail will be returned to the mailer if there is no response. The postage charge, if any, for returning the mail (but not registration or COD fees), will be collected from the mailer. EXCEPTION: When registered mail is addressed to a person who has moved and left no forwarding address, Form 3858 will not be sent, and the mail will be returned immediately to the mailer.
b. When, and only when, the mailer specifically so requests, Form 3849-D, *Notice to Sender of Undelivered COD Mail*, will be sent to the mailer in accordance with part 163.43. The mailer may then designate a new addressee or alter the amount of COD charges by submitting Form 3818, *Authorization to Change COD Charges or Addressee*, in accordance with section 163.172. The article will be returned to the mailer at the end of the holding period if no response is received. The postage charge, if any, for returning the mail (but not registration or COD fees) will be collected from the mailer. *Exception:* When COD mail is addressed to a person who has moved and left no forwarding address, Form 3849-D will not be sent, and the mail will be returned immediately to the mailer.

.272 *Returning Registered, Numbered Insured, and Certified Mail*

Prepare the record on both sides of Form 3849 *Notice of Mail Arrival or Attempted Delivery*, or show disposition in Form 3850, *Record of Delivered Registered, Numbered Insured, Certified, and COD Mail*, if Form 3850 is used as the delivery record. File Form 3849. If a return receipt is attached, indicate the reason for non-delivery on the return receipt, initial the card, postmark the card, and *return the article to the mailer with the return receipt attached*. Return registered mail through the registered mail system.

.273 *Insured and COD Received Without Identification*

When insured or COD mail bearing a postage meter stamp or postmark is received unaddressed and without return address, open it to obtain the name and address of addressee or sender, if possible. When identification is not obtained but mailing office is known, send Form 3842 and hold parcel pending reply.

.274 *Returning COD Mail*

a. Enter on Form 3814, *Record of COD Parcels Held for Delivery;* Form 3814C, *Recording and Checking COD Parcels and Funds at Offices of the Second Class;* or Form 3850 all COD packages returned to the sender.
b. Packages marked *abandon* or *destroy* which have been improperly returned to the mailing office must be handled as prescribed in 159.257. Send a report of the irregularity on Form 3827, *Irregularity Report of Insured and COD Mail*, to the postmaster who returned the mail.

.28 DISPOSAL OF PERISHABLE MAIL, DRUGS, AND COSMETICS

.281 *Perishable Mail*

Undeliverable parcels containing perishable items that cannot be forwarded or returned before spoiling, and parcels of day-old poultry that cannot be delivered or returned within 72 hours after hatching, if salable will be disposed of by the postmaster to the highest bidder through competitive bidding. Sale by bid will not be made to the addressee. The postmaster will send the proceeds of the sale, less a commission of 10 percent (but not less than 25 cents), to the mailer, by postal money order, with an explanation of the action taken. The postal money order fee will be deducted.

.282 *Drugs*

Packages undeliverable to either the addressee or the sender that contain drugs will be destroyed. They will not be sold, donated, or retained as dead parcel post.

.283 *Cosmetics*

Packages undeliverable to either the addressee or the sender that contain cosmetics, such as soaps, perfumes, powders, home permanent waves, hand lotions, hand creams, after-shave lotions, and deodorant sticks or pastes, which bear no statements claiming medicinal properties, will be treated as dead parcel post. Lipsticks will be destroyed. If there is any question whether the use of a cosmetic might, as the result of deterioration or for other reason, jeopardize life or health, the article will be destroyed.

.284 *Prohibited Bidders*

Postal employees may not submit bids at sales of perishable mail.

.285 *Remittance and Commission*

Complete Form 3820, *Sale or Destruction of Perishable Mail*, in duplicate. Fix postage-due stamps representing the amount of the commission to the original Form 3820 to the sender, and cancel the stamps. Show on duplicate copy only the name and address of purchaser and retain on file.

.323 Insured and certified mail is held a maximum of 15 days. It is held a lesser number of days if the sender so specifies.

.324 COD mail is held a maximum of 30 days. It is held a lesser number of days if the sender so specifies.

.33 SPECIAL DELIVERY AND SPECIAL HANDLING MAIL

Special delivery and special handling articles are held for the period specified in 159.31 or 159.32, except that requests for immediate return of special delivery mail will be honored.

159.4 DISPOSAL OF UNDELIVERABLE MAIL AND UNCLAIMED ARTICLES

.41 EXAMINATION AND DISPOSITION OF UNDELIVERABLE MAIL

.411 *Examination*

Third- and fourth-class undeliverable mail, which cannot be returned because of an incorrect, incomplete, illegible or missing return address, must be promptly opened and examined to identify the sender or addressee. This includes matter mailed under 162.122. All other mail bearing postage at the first-class or priority rates, may be opened only in dead letter or dead parcel branches (see 159.724). Examination of mail under this section is limited to employees designated in writing by the postmaster or bulk mail center manager. At post offices, these must be employees with claims and inquiry responsibility and must be assigned to the claims and inquiry unit at offices with such units.

.412 *Disposition*

Mail undeliverable after examination under 159.411 is disposed of as follows:

a. Postal and post cards or samples of merchandise are destroyed or sold immediately.

b. Printed matter, including circulars, greeting cards, newspapers, magazines, and other periodical publications, obviously without value, is disposed of as waste paper without examination of contents. This mail will not be torn or mutilated before being consigned to the general waste, except when necessary to prevent improper use. Such matter as redemption coupons and uncanceled postage stamps must be burned or mutilated to prevent improper use. Magazines shall not be separated from the general waste unless their separate bulk sale by contract as waste would result in a material advantage to the Postal Service by reason of the high quality of the paper. Under no circumstances may magazines or other periodical publications be sold at a per copy rate or at auction by the post office. Contracts negotiated for the disposal of waste should contain a provision prohibiting resale by the contractor of copies of magazines or other periodical publications to the public for reading purposes.

c. Domestic ordinary, insured, or COD articles bearing sender's instructions to abandon are disposed of immediately after expiration of the periods stated in 159.3.

d. Third-class mail of no obvious value (see 159.6) and without sender's request for return is disposed of as waste.

e. Insured and COD articles bearing sender's instructions to destroy will be destroyed.

f. Packages containing medicine, perishable articles, liquids, or other articles likely to injure employees, or damage equipment or other mail, or to attract pests, must be destroyed as soon as they are known to be undeliverable.

g. Letters from Canada or Mexico with return addresses are returned to the postmaster at the post office of origin.

h. Mail addressed to a deceased person. See 154.24.

i. Unclaimed franked mail from a Member of Congress, including that addressed under provisions of 122.442, and unclaimed official mail, including official reports and bulletins sent by State agricultural colleges and experiment stations, is returned to the postmaster at the office of origin if it is known. If office of origin is not known, the mail is sent to the post office at Washington, D.C. Undeliverable mail bearing return address of the White House, the Senate, or the House of Representatives, with or without postage stamps, is returned to the post office at Washington, D.C.

j. Santa Claus letters, with postage fully prepaid (or local unpaid or partly paid), with no identification of person for whom they are intended, are sent to institutions or persons who may request them to use for exclusively philanthropic purposes. If there is no voluntary request, they are sent to the dead mail office.

k. An undeliverable letter bearing the return address of a hotel, motel, school, college, or other public institution printed on the envelope as an advertisement is sent to a dead letter branch for disposition unless the return address also includes the name or title of an individual or a printed or written request for return.

l. Undeliverable and nonreturnable mail containing firearms is handled in accordance with 159.721d.

m. Other mail, including first-class and airmail, bearing no return address or an identical return and delivery address is sent to a dead letter or dead parcel post branch for final disposition.

n. Coins should be stripped from undeliverable circulars and their value should be accounted for as *Miscellaneous Revenue*, A/C 40990.

o. Mail matter, which is disposed of as waste, remains the property of the Postal Service until it has been physically removed from postal premises by contractors or others specifically authorized to effect such removal.

.42 MONEY FOUND LOOSE IN THE MAIL

Dispose of money found loose in the mail as follows:

a. United States money found loose in the mail, unless identified with losses from mail or returned to its owner, must be promptly turned over to a supervisor. Amounts turned over must be recorded on Form 25, and the entry must be receipted by both the supervisor and the finder by initialling the entry. Funds may be retained by the supervisor until $1 or more has accumulated but should be remitted at least weekly. Funds remitted must be taken into A/C 40990.

b. Retain 30 days awaiting possible claim by the owners all foreign money and any United States money having unusual value, such as uncirculated coins, antiques, or collector's items if identified as such. If unclaimed after 30 days, dispose of it as follows:
   (1) Send all Canadian money to the postmaster at Buffalo, NY 14203.
   (2) Send all other foreign money to the postmaster at New York, NY 10001.
   (3) Send U.S. money having unusual value to the postmaster at New York, NY 10001.
   (4) Register money if the known or estimated value exceeds $10.

c. Keep an identifying record only when it may assist in returning the money to its owner.

d. If a valid claim is received for money found loose in the mail after it has been taken into the postal account, make refund from current funds and take credit in A/C 40980.

.43 UNCANCELED STAMPS FOUND LOOSE IN THE MAIL

.431 *Uncanceled Stamps Lost From Mail*

a. Reaffix to mail if possible; if not, drop in a slotted and sealed or locked container located on the workroom floor.
b. Destroy at least once a month by burning.
c. Make no record of these stamps.

.432 *Uncanceled Stamps Not Lost From Mail*

a. Place in an envelope and retain 30 days in the inquiry section of the main office if found at main office or at contract stations or branches; or in custody of the superintendent if found at classified stations and branches.
b. Make a descriptive record on the envelope only if it will assist in returning the stamps to the owner. If delivered to owner, take a receipt on the envelope.
c. If unclaimed after 30 days, destroy monthly at the place of retention in the presence of a witness designated by the postmaster. Keep a record of the amount of stamps received and destroyed, by total amounts only, on Form 25.

.44 ARTICLES FOUND LOOSE IN THE MAIL

.441 Treat mail under this section (159.44) at the bulk mail center or post office where found. Make every reasonable effort to match loose articles with the envelope or wrapper from which lost.

.442 Examine articles of value which cannot be matched with an addressed envelope or wrapper to try to identify the mailer or addressee. If identified, return or forward under a penalty envelope or label, with explanation. Handle unidentified postal money orders in accordance with 159.772b(8). Charge postage as follows:

a. Except as indicated in 159.442b, c, or d, matter which has become loose or undeliverable due to damage during handling, and which is subsequently identified and returned or forwarded to the mailer or addressee, shall be assumed to have been mailed with postage prepaid and shall be returned or forwarded to the next delivery point without any additional postage charges. Any subsequent forwarding or return, will be subject to postage charges at the applicable rate.
b. If the article contains $10 or more in money or negotiable or intangible property susceptible of being converted into cash, register the item and show the minimum registry fee as postage-due.
c. If it is evident that postage has not been prepaid, loose or undeliverable matter should be rated for collection of postage on delivery at the applicable rate.
d. Items such as wallets, bank deposits, or other nonmail matter, found in collection boxes or other points within the jurisdiction of the Postal Service, should be returned at the applicable single-piece third- or fourth-class rates in parts 134 or 135.

.443 Dispose of unidentified articles that have no value as waste. Treat those of value as dead mail. Forms, brochures, pamphlets, merchandise coupons, and similar matter which have become soiled, crumpled, or mutilated, must be disposed of as waste, in accordance with 159.412b.

.444 Loose merchandise bearing an exclusively controlled trade name may not be released for delivery or return unless there is acceptable evidence, as prescribed in 159.445, that the firm to whom the merchandise is to be delivered is the mailer or addressee. The fact that an item bears an exclusively controlled trade name does not, by itself, establish a firm's right as the mailer or addressee.

.445 Postmasters and bulk mail center managers must return merchandise to the nearest retail store, mail order store, or distribution center of a firm if ALL of the following conditions exist AND the firm does not object. Questions regarding return of merchandise under this Section should be addressed to the Office of Mail Classification, U.S. Postal Service, Washington, DC 20260.

a. The article must appear to be new.
b. Each article, or bundle of articles, must have an invoice, picking ticket, or other detachable identification on it. The identification must clearly show the following information:
   (1) The name of the firm.
   (2) A catalog, stock number, or other indication that the article was taken from the firm's stock.
   (3) An order or invoice number, or other indication that the article was mailed in connection with a customer's order.

159.5 DIRECTORY SERVICE

.51 AVAILABILITY

Service is not generally available, but at carrier offices where a directory is available, directory service is given to registered, certified, insured, COD, special delivery, and special handling mail; to perishable matter and parcels of obvious value; and to international mail, except circulars. Incorrectly or incompletely addressed mail from overseas Armed Forces is given directory service and is not returned to the sender until every effort is made to deliver it.

.52 MAIL ENTITLED TO DIRECTORY SERVICE

Provide directory service at letter carrier offices for the following types of mail which cannot be delivered due to insufficient address or which fail of delivery at the address given. Centralize the service at the main office or the point of centralized distribution.

a. Certified.
b. COD.
c. Foreign mail, except foreign circulars: Foreign mail bearing first-class postage, received in quantities, and having the general characteristics of circular mail, must not be given directory service.
d. Insured.
e. Mail from overseas Armed Forces. Do not return this mail to sender until every possible effort has been made to deliver it.
f. Parcels of obvious value.
g. Perishable matter.
h. Registered.
i. Special delivery.
j. Special handling.
k. Official Postal Service mail.

.53 WHAT DIRECTORY TO USE

Use only a city or a telephone directory. Do not compile one of any kind.

.54 MAIL NOT ENTITLED TO DIRECTORY SERVICE

.541 Do not give mail, other than that listed in 159.52, directory service.

.542 Mail not entitled to directory service which because of incomplete or erroneous address cannot be delivered must be examined by an experienced distributor to effect delivery if possible. EXCEPTIONS: Do not review mail not addressed by name, mail bearing a simplified address, and third-class mail of no obvious value prior to disposition.

.543 Indefinitely addressed first-class mail and other mail of obvious value, apparently intended for delivery on a rural or star route, must be examined by an experienced distributor who will either case it to the carrier, or endorse it as specified in 159.113 if undeliverable. The carrier, if unable to effect delivery, must endorse each piece *Not for Rural or Star Route No.*, unless one of the reasons in 159.112 would be more appropriate.

.544 At large offices, where rural service is provided from different stations, conduct the examination described above only at the station from which delivery is attempted.

159.6 OBVIOUS VALUE MAIL

.61 IDENTIFIED AS TO OBVIOUS VALUE

The sender of third- and fourth-class mail may identify pieces which are considered to be of obvious value and assure their return by using the *Return Postage Guaranteed* service. The sender may assure delivery or return of the pieces by using the *Forwarding and Return Postage Guaranteed* service.

.62 UNIDENTIFIED AS TO OBVIOUS VALUE

When an undeliverable piece does not bear the sender's guarantee to pay forwarding or return postage, its value must be appraised before it is disposed of. Packages of merchandise or personal property such as photographs, jewelry, or clothing are examples of matter having obvious value. Miscellaneous printed matter such as circulars and articles unsolicited by the addressee such as samples of merchandise are examples of matter not of obvious value.

.63 DISPOSITION

When a piece not so indorsed is determined to be of obvious value, it must not be disposed of as waste, or sent to dead letter or dead parcel branches if it can be forwarded to the addressee or returned to the sender. If the addressee has guaranteed to pay forwarding postage for matter of obvious value, the piece will be forwarded. If the piece cannot be forwarded, it will be returned to the sender at the applicable postage rates.

159.7 DEAD MAIL

.71 DEFINITION

Dead mail is matter deposited in the mail which is or becomes undeliverable, or is unmailable, and which cannot be returned to the sender.

.72 TREATMENT AT LAST OFFICE OF ADDRESS

.721 Disposition

At the end of retention periods specified in 159.3, mail is declared dead. Dead mail described in 159.412 a, b, c, d, e, and f is disposed of locally. First-class letters, first-class parcels, and other articles that have obvious value

are forwarded on fixed schedules to dead letter or dead parcel post branches for final disposition. Dispose of as follows:

a. *First-Class Mail.*
   (1) *Offices With 950 or More Revenue Units.* Send dead letters to your dead letter branch daily. Send dead first-class parcels to your dead parcel post branch weekly.
   (2) *Other Offices.* Send dead letters to your dead letter branch and dead first-class parcels to your dead parcel post branch weekly.

b. *Third- and Fourth-Class Mail.* Hold third- and fourth-class parcels of obvious value for 30 days after they become dead. Then send them to the proper dead parcel post branch weekly.

c. *Insured and COD Matter.* Hold dead insured and COD mail for 6 months after it becomes dead. Then send it to your dead parcel post branch weekly. Hold dead mail having salvage value, and dead mail necessary as evidence for pending claims until disposal instructions are received from the St. Louis Postal Data Center, which adjudicates the claim. Insured and COD matter endorsed by the sender *Destroy* or *Abandon* is destroyed or abandoned when it becomes undeliverable at the last office of address. When the sender of undeliverable insured or COD mail refuses to accept it, give him written notice that the parcel will be treated as dead mail if not claimed and postage-due paid in 10 days. If parcel is not claimed, send it to the dead parcel branch on the next weekly dispatch. If parcel was insured, endorse Form 3849 to show refusal by the sender; if COD, endorse the tag.

d. *Firearms.*
   (1) Handle concealable firearms, mailed contrary to 124.4, in accordance with 232.3n.
   (2) Hold dead mail containing concealable firearms, mailed in accordance with 124.4, or other firearms, for the applicable retention period specified in 159.721b or 159.721c. Then send it to your dead parcel branch weekly using registered mail. Include a memorandum with the shipment advising the reason for nondelivery and how it was discovered that the shipment contained firearms.

e. *Matter Posted in Violation of Law or Treaty.* Retain all dead matter, including first class not in the form of a letter, addressed to foreign countries posted in violation of law or treaty stipulation that is of obvious value for 6 months after it becomes dead.

f. *Foreign Mail.*
   (1) *Originating in Canada.* Forward dead letters originating in Canada to your dead letter branch daily. See Publication 42, *International Mail.*
   (2) *Other.* Send dead letters originating in countries other than Canada to the exchange office daily. See Publication 42, *International Mail.*

g. *Articles Found Loose in the Mail.* Articles found loose in the mail, which cannot be delivered or returned after the initial handling prescribed in 159.444 and 159.445, are treated as dead mail. Hold for 30 days and then send to the proper dead parcel branch weekly. Treat as follows:
   (1) *Sorting.* If the volume requires a plan of sorting to facilitate search and disposal on schedule, proceed as follows:
      (a) Separate the articles into general groups, such as books, clothing, hardware, etc. Store by weeks to facilitate location and disposal.
      (b) Only if the volume makes it necessary, assign a serial number to each category referred to in (a); assign a serial number to each parcel within each category; make a card or book list of the parcels, by category and parcel numbers, with a brief description of the articles.

(2) *Wrapping.* Do not wrap or box loose articles during the retention period except when necessary to keep together several articles known to be from the same parcel.

.722 Makeup and Dispatch

a. *Marking*
See that the reason for nondelivery is endorsed on dead mail when preparing for final disposition. Backstamp letters and postmark parcels.

b. *Makeup*
(1) Enclose dead letters in an envelope wrapper, tie securely in separate bundles, or pouch, as warranted by quantity.
(2) Use sacks for dead parcels and for articles found loose in the mail.
(3) Do not tie undeliverable and unmailable dead letters in the same bundle. Separate bundles of undeliverable and unmailable dead letters may be placed in the same envelope wrapper, or pouch.
(4) Do not tie domestic dead letters in the same bundle with dead letters which originated in Canada. Separate bundles of Canadian and domestic dead letters may be placed in the same envelope wrapper, or pouch.
(5) Do not place any mail, not intended for dead mail units, in envelope wrappers, letter bundles, pouches, or sacks addressed to those units. Envelope wrappers or bundles addressed to dead mail units may be enclosed with other mail in pouches or sacks addressed to a post office in which a dead mail unit operates.

c. *Labeling and Addressing for Dispatch*
(1) Address dead letter mail as follows: *Dead Letter Branch, (City, State, and ZIP Code).*
(2) Address dead parcel mail as follows: *Dead Parcel Branch, (City, State, and ZIP Code).*
(3) The address of the appropriate unit should be handwritten or typewritten on envelopes used for sending mail to dead letter or parcel branches.
(4) When a pouch or sack is used, the address of the dead mail unit must be shown on a separate tag tied around the neck of the container to prevent opening in transit.
(5) Where available, preprinted central markup labels should be used for forwarding mail to dead mail units as follows:
(a) *Evelope Wrappers.* Affix as an address label.
(b) *Letter Bundles.* Place on the top letter of the bundle adjacent to, but not covering, the original address. Affix a blue Label F in the lower left corner of the top letter.
(c) *Pouches and Sacks.* Affix to a blank label inserted in the label holder, and to the security tag around the neck of the container (see 159.722c(4)).
(6) Where preprinted central markup labels are not available, use Label 22, *Label For Return of Undeliverable Mail,* as a facing slip for letter bundles, or folded for use as a sack or pouch label for mail sent to dead letter or parcel branches.

.723 Listing and Recording

Do not make a list or record of dead mail sent to a dead letter or dead parcel post branch except as follows:

a. *Registered, Certified, and Numbered Insured Mail.* Complete delivery receipt, show disposition, and file with other delivery receipts. Dispatch as registered all dead registered mail.

b. *Minimum Fee Insured Mail.* Complete delivery receipt, show disposition, and file alphabetically under the name of addressee.

c. *COD Mail.* Show disposition by endorsing COD tag, and file with *return to sender* records.

.724 Dead Letter and Dead Parcel Post Branches

a. Send Forms 1510 inquiring for letters valued at more than $1 and for first-class parcels to dead mail branches.

b. *Dead Letter Branches*
(1) Locations

Atlanta, GA 30304
Boston, MA 02109
Chicago, IL 60607
Cincinnati, OH 45234
Dallas, TX 75221
Memphis, TN 38101
Minneapolis, MN 55401
New York, NY 10001
Philadelphia, PA 19104
St. Louis, MO 63155
San Francisco, CA 94101
San Juan, PR 00902
Washington, DC 20013
Wichita, KS 67202

(2) Dead Letter Service Areas

State or Territory	Dead letter branch
Alabama	Memphis, TN 38101
Alaska	San Francisco, CA 94101
Arizona	San Francisco, CA 94101
Arkansas	St. Louis, MO 63155
California	San Francisco, CA 94101
Colorado	San Francisco, CA 94101
Connecticut	Boston, MA 02109
Delaware	Philadelphia, PA 19104
District of Columbia	Washington, DC 20013
Florida	Atlanta, GA 30304
Georgia	Atlanta, GA 30304
Guam	San Francisco, CA 94101
Hawaii	San Francisco, CA 94101
Idaho	San Francisco, CA 94101
Illinois	Chicago, IL 60607
Indiana	Cincinnati, OH 45234
Iowa	St. Louis, MO 63155
Kansas	Wichita, KS 67202
Kentucky	Cincinnati, OH 45234
Louisiana	Dallas, TX 75221
Maine	Boston, MA 02109
Maryland	Washington, DC 20013
Massachusetts	Boston, MA 02109
Michigan (Lower Peninsula)	Chicago, IL 60607
Michigan (Northern Peninsula)	Minneapolis, MN 55401
Minnesota	Minneapolis, MN 55401
Mississippi	Memphis, TN 38101
Missouri	St. Louis, MO 63155
Montana	San Francisco, CA 94101
Nebraska	Wichita, KS 67202
Nevada	San Francisco, CA 94101
New Hampshire	Boston, MA 02109
New Jersey	Philadelphia, PA 19104
New Mexico	San Francisco, CA 94101
New York	New York, NY 10001
North Carolina	Atlanta, GA 30304
North Dakota	Minneapolis, MN 55401
Ohio	Cincinnati, OH 45234
Oklahoma	Wichita, KS 67202
Oregon	San Francisco, CA 94101
Pennsylvania	Philadelphia, PA 19104
Puerto Rico	San Juan, PR 00902
Rhode Island	Boston, MA 02109
Samoa	San Francisco, CA 94101
South Carolina	Atlanta, GA 30304
South Dakota	Minneapolis, MN 55401
Tennessee	Memphis, TN 38101
Texas (except zips 79930-79999)	Dallas, TX 75221
Texas (zips 79930-79999)	San Francisco, CA 94101
Utah	San Francisco, CA 94101
Vermont	Boston, MA 02109
Virginia (except Accomack and Northampton Counties)	Washington, DC 20013
Virginia (Accomack and Northampton Counties)	Washington, DC 20013
Virgin Islands	San Juan, PR 00902
Washington	San Francisco, CA 94101
West Virginia	Washington, DC 20013
Wisconsin	Minneapolis, MN 55401
Wyoming	San Francisco, CA 94101

c. *Dead Parcel Branches*

(1) *Policy*

Dead Parcel Branches are established at selected post offices to serve post offices and bulk mail centers in a designated area. There will normally be one dead parcel branch in each BMC (bulk mail center) service area, but a dead parcel branch may serve more than one BMC service area as warranted by volume. The bulk mail center and all post offices in a BMC service area send dead parcels to their assigned dead parcel branch. If a post office is re-assigned to another bulk mail service area, its dead parcel branch assignment will also be changed.

(2) Dead Parcel Service Areas

Service Areas	
Bulk Mail Centers	*Dead Parcel Branch*
Atlanta	Atlanta, GA 30304
Chicago	Chicago, IL 60607
Cincinnati	Cincinnati, OH 45234
Dallas	Fort Worth, TX 76101
Denver	Denver, CO 80202
Des Moines	St. Paul, MN 55101
Detroit	Detroit, MI 48233
Greensboro	Greensboro, NC 27420
Jacksonville	Jacksonville, FL 32201
Kansas City	St. Louis, MO 63155
Los Angeles	Los Angeles, CA 90052
Memphis	Memphis, TN 38101
New York	New York, NY 10001
Philadelphia	Philadelphia, PA 19104
Pittsburgh	Pittsburgh, PA 15219
St. Louis	St. Louis, MO 63155
St. Paul	St. Paul, MN 55101
San Francisco	San Francisco, CA 94101
Seattle	Seattle, WA 98109
Springfield	Boston, MA 02109
Washington	Washington, DC 20013

(3) *Separate Activities*

Each post office with a dead parcel branch must provide a separate activity for processing undeliverable and loose matter found within its own operation. A physical separation must be provided between the work areas devoted to loose and undeliverable processing and to dead mail activities. Mail subject to a retention period may cross the separation into the dead parcel area only after the applicable retention period has expired. Dead matter from other facilities must be taken directly into the dead parcel unit and immediately prepared for auction or other appropriate disposal. Activities for each of these operations must be reported separately. Form 3731, *Quarterly Report of Dead Parcel Post Branch*, must not include any volume or work hour statistics for mail matter which has not been held for the prescribed retention period.

.73 TREATMENT AT DEAD MAIL OFFICE

a. Mail is examined and opened when necessary to find the name and address of the sender or addressee.

b. A fee of 20 cents is charged for delivery to sender or addressee of each letter and first-class parcel opened in the dead mail office.

c. If the sender or addressee cannot be identified, the following retention periods are observed:

(1) Letters of domestic origin with enclosures of value, 1 year.

(2) Other letters, none.

(3) Letters containing merchandise, and third- and fourth-class mail containing valuables (including first-class mail not in the form of a letter, addressed to another country), 60 days: if posted in violation of law or treaty, 6 months.

d. Dead mail that cannot be delivered to addressee or sender is destroyed or sold.

e. Uncanceled postage stamps or stamped paper, which has been used for postage, will not be removed or salvaged in any manner. If mail bearing uncanceled postage is to be forwarded, returned, filed, or sold under the provisions of 159.7 or 159.8, the postage stamps or stamped paper will be canceled in accordance with 332.2. If mail bearing uncanceled postage is to be destroyed under 159.7 or 159.8, the destruction will include the affixed postage.

f. Follow procedure below for delivery of returned dead mail:

(1) *Confidential Treatment.* Treat this mail as if under seal. Maintain the strictest secrecy as to its contents.

(2) *Forwarding.* Forward if necessary to another post office under the same class as received. Appropriately endorse Form 4914, *Transmittal Letter To Deliver Dead Letters*, accompanying the mail and forward it with the mail.

(3) *Disposal If Undeliverable.* If the mail cannot be delivered within a reasonable time after return from the dead mail branch, endorse the reason for non-delivery on the form which accompanies the mail. Return the mail and form to the sending dead letter or dead parcel post branch under the same class by which received.

g. For registered mail:

(1) When received under registered cover, handle in the inquiry section or in some other section by an employee specifically designated by the postmaster. Do not allow the registry section to open and dispose of this mail.

(2) If the address is supplied, reregister to the rightful owner under the local registry number and charge the dead-letter fee (see 159.747) plus the minimum registry fee.

(3) Enter the registry number on the form which accompanies the dead mail. File the form.

(4) Register when forwarding or returning.

.74 TREATMENT OF DEAD MAIL IN DEAD LETTER BRANCHES

.741 Opening Letters

The dead letter branches dispose of dead first-class letters. Dead letters are opened at dead letter branches in an attempt to determine the name and address of the sender so that his property may be returned. Only those employees especially designated to open dead letters shall be allowed to treat such matter and then only under proper supervision. Do not ordinarily use substitute employees in dead letter branches.

.742 *Letters Which Can Be Returned to Sender or Forwarded to Addressee*

Return dead letters to the sender or, when the opening of the letter reveals the correct name and address of the addressee and the name and address of the sender is not found, forward the letter to the addressee; except:

a. Destroy any letter which contains advertising or other matter obviously of no value to the sender.

b. Send all domestic letters, registered or ordinary, containing money or valuable enclosures *returnable to a foreign address*, after recording when required, to the Postmaster, Dead Letter Branch, Washington, DC 20013.

(3) Destroy enclosures consisting of food or drugs. Dispose of other perishable enclosures in accordance with instructions in 159.28.

(4) Send handkerchiefs and similar merchandise to the proper dead parcel post branch, without listing or recording in weekly returns.

(5) Treat nonnegotiable or intangible property (excluding commercial securities) not susceptible of being converted into cash as having no value and destroy according to 159.772c(3). *Note:* Nonnegotiable or intangible property not susceptible of being converted into cash would require an endorsement to make it payable to bearer.

(6) Contents of letters containing negotiable or intangible property (excluding commercial securities) susceptible of being converted into cash, that have been returned to the sender and refused and then returned to the dead letter branch for second-time treatment, should be immediately converted into cash and the proceeds sent to the superintendent of main office windows, with Form 4912, for deposit as *Miscellaneous Revenue*, A/C 40990.

(7) All undeliverable commercial securities (stocks, bonds, and interest coupons) which cannot be returned, should be sent by registered mail to the Inspector in Charge, New York, New York 10001, Attention: Securities Coordinator.

(8) Forward unidentified postal money orders to the Money Order Division, St. Louis Postal Data Center, St. Louis, MO 63182, with a memorandum explaining the circumstances.

c. *Letters Not To Be Filed (Estimated Value $1 or less)*

(1) Send Air Force discharges to Director of Administrative Services, Department of the Air Force, Washington, 20330; Army discharges to Army Adjutant General, The Department of the Army, Washington, 20310; Navy and Marine Corps discharges to Department of the Navy, Bureau of Naval Personnel, Washington, 20350; Coast Guard discharges to United States Coast Guard, Washington, 20004; and certificates of naturalization or citizenship papers to Immigration and Naturalization Service, Department of Justice, Washington, 20536. In each case, send an accompanying memorandum explaining that the mail has been removed from dead letter mail.

(2) Place uncanceled United States postage stamps and stamped paper found as enclosures in a slotted and sealed or locked container each day and dispose of them in accordance with instructions for disposing of uncanceled postage stamps and stamped paper found loose in the mail. Record on Form 25, each day, the total amount of stamp stock removed from letters.

(3) Destroy other enclosures.

.78 REPORTS

Letters received at a dead letter branch must be treated promptly. Maintain a record on Form 4911, *Dead Letter Record*. Make the count of dead letters received by the measurement or weight process. For *Total Hours Used*, record the total clerical hours used, the paid absences of the employees, the proportionate hours devoted to this work by supervisory employees, and the proportionate paid absences of such supervisory employees. Complete Form 4913, *Quarterly Report of Dead Letters*, from the information on Forms 4911. Submit at the end of each quarter to the Office of Mail Classification, Rates and Classification Department, Washington, DC 20260.

.79 INQUIRIES

Give inquiries received from customers prompt attention. If search for a dead letter is unsuccessful, notify the customer on Form 4915, *Reply to Inquiry Concerning Dead Letter Mail*.

159.8 TREATMENT IN DEAD PARCEL POST BRANCHES

.81 INITIAL HANDLING

.811 Opening Parcels

Dead parcels are opened at dead parcel post branches in an attempt to

determine the name and address of the sender, so that his property may be returned. *Exception:* If the parcels are endorsed to show that they are the property of the United States Postal Service or that the sender has refused to pay postage due on return as undelivered, consider as property of the United States Postal Service. Only those employees especially designated to open dead parcels shall be allowed to treat such matter and then only under proper supervision. Do not ordinarily use substitute employees in dead parcel post branches.

.812 First-Class Parcels

Treat as dead letters. See 159.74.

.813 Other Parcels

a. Return dead parcels to the sender, or to the addressee when the opening of the parcel reveals the correct name and address of the addressee and the name and address of the sender is not found, except when the parcel has become the property of the United States Postal Service. Rate the parcel for collection of postage due at the zone rate from the dead parcel post branch and additional postage at the zone rate from the office of last address to the dead parcel post branch.

b. Prepare other parcels, including ordinary, insured and COD, for disposal as soon as received if sender or addressee cannot be identified. Do not list contents.

c. Treat mail matter which has been forwarded to a dead parcel post branch because it was found without any postage as follows:

(1) Return to sender.

(2) If the mail does not contain any return address information, forward to addressee.

(3) If the mail has been forwarded to the dead parcel post branch because the return address is the same as the delivery address, open the mail and proceed with either (1) or (2) above.

d. Treat parcels containing money or uncanceled domestic postage stamps in accordance with instructions in 159.75 through 159.76.

e. Report to the Office of Mail Classification, Rates and Classification Department, the receipt of matter from parcels deposited in the mail in violation of law or treaty. Furnish a detailed description of the matter and, if available, the names and addresses of sender and addressee. Hold the matter until disposal instructions are furnished.

f. Destroy any exposed or developed photographic material found in dead mail. Sixteen milimeter commercial or educational motion picture film must be retained for six months before destruction.

.82 USE OF DEAD MATTER BY POSTAL SERVICE

Items intended for official use may be withdrawn from dead parcel branches only by postal inspectors who will give memorandum receipts for the articles withdrawn. Keep these receipts on file in the dead parcel post branch until the goods are returned for disposal as dead parcel post. Return the receipts.

.83 FIREARMS AND AMMUNITION

.831 Definition

The term *firearms* means any weapon by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive, and a firearm muffler or firearm silencer, or any part or parts of such weapon.

.832 Notification

The description and serial number of all firearms received at each dead parcel post branch shall be furnished to the local inspector-in-charge on a weekly basis. No firearm shall be committed to a sale until a clearance has been received from the Inspection Service.

Subchapter 160 SPECIAL MAIL SERVICES

Part 161

REGISTERED MAIL

161.1 DESCRIPTION

.11 WHY MAIL IS REGISTERED

Registered mail provides added protection for valuable and important mail plus evidence of mailing and delivery and indemnity in case of loss or damage.

.12 WHAT MAY BE REGISTERED

All mailable matter prepaid with postage at the first-class or priority rates. Stamps or meter stamps must be attached representing all postage and fee charges. Business reply mail may not be registered unless postage and all fees are fully prepaid.

.13 WHERE TO MAIL

Registration may be obtained by presenting mail to:

a. *Post Offices and Their Branches and Stations.* Postmasters will accept mail of unusually high value only at the main office or larger branches and stations.
b. *Rural Carriers.* Mail and cash may be left in a rural box. Any change will be handed to the sender or placed in an envelope and left in the box on the carrier's next trip. Responsibility will not be assumed for articles or money until a receipt is issued. No responsibility will be assumed for any change placed in the box.
c. *Nonpersonnel Rural Stations and Branches.* Customers must meet the rural carrier at the nonpersonnel rural station or branch to have mail registered.

.14 REGISTRATION NOT AVAILABLE

Mail will not be registered if:

a. Placed in street letterboxes or in mail drops in post offices.
b. Addressed to post offices to which it cannot be transported with safety.
c. Not properly prepared. See 161.3.
d. Two or more articles are tied or fastened together, unless enclosed in the same envelope or wrapper.

.15 ADDITIONAL SERVICES

.151 *Registered COD*

Combined registry and COD service is available. The regular registered mail fees apply plus the collection charge specified in 161.21. The mail must conform with registered mail and COD service requirements.

.152 *Return Receipts*

The sender may obtain a return receipt, Form 3811, by paying fees, in addition to the registration fee and postage, as outlined in 165.2.

.153 *Restricted Delivery*

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery to other than to the addressee, see 165.34.

161.2 FEES AND LIABILITY

.21 FEES

Value	Fees (in addition to postage)	
	For articles not covered by commercial insurance or commercial policies with deductible, excess or other insurance clauses.	For articles covered by commercial insurance or other insurance without deductible, excess or other insurance clauses.
$0.00 to $100	$2.10	$2.10
$100.01 to $200	2.30	2.30
$200.01 to $400	2.50	2.50
$400.01 to $600	2.90	2.90
$600.01 to $800	3.20	3.20
$800.01 to $1,000	3.50	3.50
$1,000.01 to $2,000	3.80	$3.50 plus handling charge of 25 cents per $1,000 or fraction over first $1,000.
$2,000.01 to $3,000	4.10	
$3,000.01 to $4,000	4.40	
$4,000.01 to $5,000	4.70	
$5,000.01 to $6,000	5.00	
$6,000.01 to $7,000	5.30	
$7,000.01 to $8,000	5.60	
$8,000.01 to $9,000	5.90	
$9,000.01 to $10,000	6.20	
	Maximum Liability $10,000.00	
$10,000.01 to $1,000,000	$6.20 plus handling charge of 25 cents per $1,000 or fraction over first $10,000.	Maximum Postal Service liability is the first $1,000.00 of value.
$1,000,000.01 to $15,000,000	$253.70 plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.	$253.25 plus handling charge of 20 cents per $1,000 or fraction over first $1,000,000.
Over $15,000,000	Additional charges may be made based on considerations of weight, space, and value.	

ADDITIONAL SERVICES

	Extra fee (cents)
COD COLLECTION CHARGE (Maximum amount collectible is $800)	85
RESTRICTED DELIVERY	80
RETURN RECEIPTS:	
Requested at time of mailing:	
Showing to whom and when delivered	25
Showing to whom, when and address where delivered	45
Requested after mailing:	
Showing to whom and when delivered	45

.22 POSTAL INSURANCE LIABILITY

.221 *Without Other Insurance*

Postal insurance covers value up to the maximum of $10,000, except as provided in 161.222 and 161.223.

.222 *With Other Insurance*

Whenever postal insurance and other insurance both apply to the first $1,000 of value or any part thereof, postal liability is assumed on a co-insurance basis and prorated according to a prescribed formula.

.223 *With Commercial Insurance and Deductible, Excess or other Insurance Clauses*

When a commerical policy contains a deductible clause, the deductible is considered to be without commercial insurance. To obtain full postal liability coverage for the amount of the deductible, the full registry fee (161.21, Col. 1) must be paid for the amount of the deductible. When the commercial policy contains an excess or other insurance clause, there is considered to be no commercial insurance. To obtain full postal liability, the full registry fee (161.21, Col. 1) must be paid. In either case, postal liability cannot exceed $10,000.

.224 *Handling Charges*

The handling charge is assessed to offset the cost of handling higher value registered. These charges cannot be added to the registry fee to increase the liability of the Postal Service.

.225 *To Canal Zone*

The maximum liability for registered mail addressed to the Canal Zone is $1,000. For values over $1,000, the handling charges apply.

.23 REFUNDS

Registration fees will not be refunded after the mail is accepted. Return receipt or restricted delivery fees will be refunded only when failure to furnish a return receipt or to give restricted delivery was the fault of the Postal Service. Receipts for fees must be submitted with requests for refunds.

.24 DECLARATION BY SENDER

.241 *Value*

The sender is required to tell the postal clerk, or to enter on the firm mailing bill if a firm mailer, the FULL value of mail matter presented for registration. The fact that private insurance may be carried on registered mail does not modify the requirements for declaring the value as defined below:

Kind of mail matter	*Value to be declared*
Negotiable instruments—Instruments payable to bearer, and MATURED interest coupons.	Market value.
Nonnegotiable instruments—All registered bonds, warehouse receipts, checks, drafts, deeds, wills, abstracts, and similar documents. Certificates of stock are considered nonnegotiable so far as declaration of value is concerned.	No value, or replacement cost if postal insurance coverage is desired. (See *Note* below.)
Money	Full value.
Jewelry, gems, precious metals	Market value or cost.
Merchandise	Market value or cost.
Nonvaluables—matter not having intrinsic value such as letters, files, records, etc.	No value, or replacement cost if postal insurance coverage is desired.

Note: Individuals or firms who cannot obtain replacement without cost are required to declare replacement costs. Replacement costs normally range from 3 percent to 6 percent of the market value of the instrument. Indemnity is limited to replacement cost.

.242 *Official Mail*

Government agencies or officials must declare the value of the matter presented so that it may be given proper care.

.243 *Free Registration*

A declaration of value is not required on mail registered free under the provisions of 161.251c. No indemnity will be paid for any matter registered free.

.25 MAIL REGISTERED WITHOUT PREPAYMENT

.251 *Types*

The following types of official mail, if prepared in accordance with the requirements for transmission of mail without prepayment of postage set forth in Part 137, may be sent by registered mail without payment of a registration fee:

a. Official mail of authorized Government departments and agencies
b. Census mail
c. Naturalization and immigration mail

.252 *Currency For Redemption*

Currency sent to the Treasurer of the United States, Washington, DC 20220, for redemption, contained in letters or parcels with postage prepaid by the sender, and redeemed currency mailed to the Treasurer of the United States may be sent by registered mail without payment of registration fee, under the following conditions:

a. The contents must be exhibited to the postmaster with a list giving a detailed description of the money. For currency, list the serial number, series date, and denomination. For coin, list only number and denomination.
b. After the contents have been verified, the letter or parcel must be sealed in the presence of the postmaster.
c. The list must be left with the postmaster.
d. No liability is assumed by the Postal Service. If coverage is desired, the regular registration fees must be paid for liability.

161.3 PREPARATION FOR MAILING

.31 CONDITIONS

Postal employees are not permitted to assist in the preparation or sealing of mail to be registered. The mail must bear the complete names and addresses of both sender and addressee. Envelopes or packages that appear to have been opened and resealed, or which are otherwise improperly prepared, will not be registered. Padded envelopes are not acceptable in the registered mail service.

.32 SEALING

The sender must securely seal envelopes. Self-sealing envelopes are not acceptable. Do not place paper or cellulose strips or wax or paper seals over the intersections of flaps of letter size envelopes where the postmark impressions are made. Wrap and seal packages with mucilage or glue or with plain paper or cloth tape. Packages containing currency or securities may not be sealed exclusively by use of paper strips, but must first be sealed securely with may be considered packages so far as the sealing requirements are concerned. Tape that will not adhere in such a manner as to damage the envelope or wrapper if removed, or tape which will not absorb a postmark impression, may not be used on registered mail.

.33 FRAGILE ITEMS

The sender is required to tell the postal employee whether or not the item is of a fragile nature and, if so, describe the interior packing. Packages will be refused if not properly packed to withstand normal handling in the mail. Indemnity may be denied if fragile articles are not properly packed.

.34 PACKING

All articles presented for registration must be packed in accordance with Subchapter 120 of this Manual. A package may be refused if it is determined that an article is not packed in a manner that will assure safe transmission in the mails. Indemnity may be denied if articles are not properly packaged.

.35 WINDOW ENVELOPES

Envelopes must have panels covering the opening. If transparent panels are glued to the envelopes, they may contain only matter without intrinsic value. If the panel is part of the envelope, the envelope may be used for all registered mail.

.36 FIRM REGISTRATION BOOKS

If an average of three or more articles is presented for registration at one time, the sender may obtain free firm registration books, Form 3877. These must be used in accordance with instructions that will be given by the postmaster. One copy of the bill will be retained by the post office and the other will be receipted and returned to the sender. All entries made in firm registration books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

.37 RETURN RECEIPTS AND RESTRICTED DELIVERY

Firm mailers are expected to complete and attach the return receipt card, Form 3811, to the mail and show the required official endorsement on the address side of the mail. See 161.152 and 161.153. If the mail is to be restricted in delivery, it shall be marked *Restricted Delivery* on the address side of the mail.

.38 MAILING RECEIPTS

A receipt will be issued when mail is accepted for registration. If requested to do so by sender, the accepting postal employee will show on the mailing receipt and post office record the time registered article was accepted for mailing. For individual transactions, the receipt is prepared by postal employee. When firm registration forms are used, the receipt will be postmarked, signed and issued after entries have been checked against mail. A temporary receipt showing only the total number of articles may be issued when a large number of articles is mailed. The permanent descriptive receipt will be issued as soon as possible after verification.

.39 WITHDRAWAL OR RECALL

The sender may withdraw or recall registered mail without charge before its delivery, under the following conditions:

a. By writing on the receipt *Withdrawn before dispatch* and signing and surrendering the receipt.

b. By filing a written request for its return after dispatch at the post office where the article was mailed, giving names and addresses of sender and addressee, the registry number, and date of mailing. Costs of telegrams must be paid by the sender.

If remailed, the article must be under new cover, and bear new postage and fee.

161.4 DELIVERY

.41 PROCEDURE

The responsibility of the Postal Service for registered mail ends with its proper delivery. Mail for delivery by carriers is taken on the first trip after

it is received unless the addressee has requested the postmaster to hold his mail at the post office. The addressee or person representing him may obtain the name and address of the sender, and may look at registered mail while it is held by the postal employee, before accepting delivery and signing the delivery receipt. Identification will be required if the applicant for registered mail is unknown. The mail will not be given to the addressee until the delivery receipt is obtained by the postal employee. The name of the addressee must appear on line 1. If the signature on the delivery receipt is not legible, the delivering employee must print the name of the recipient on the receipt in an area which will not interfere with other signatures.

.42 RURAL DELIVERY

For delivery by rural carriers or at personnel and nonpersonnel rural stations and branches, see Part 156.

.43 STAR ROUTE DELIVERY

Star route carriers will deliver registered mail if required by the contract, but delivery will be made only at the customer's box or along the route.

.44 NOTICE OF ARRIVAL

If the carrier is unable to deliver registered mail, he will leave a notice. If the mail is not delivered by carrier, a notice of arrival will be issued through regular mail channels. If the mail is not delivered or called for within 5 days, a second notice will be issued, provided the maximum period for which the mail may be held permits. No second attempt to deliver will be made unless the post office is requested to do so.

.45 RESTRICTED DELIVERY

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery other than to the addressee, see 165.34.

.46 BAD CONDITION

If the addressee accepts a registered article that has been repaired with sealing stamps or reenclosed in a new envelope or wrapper, the addressee must open it without disturbing the seal, in the presence of the delivering employee. If anything is missing, the envelope or wrapper must be given to the employee after it has been endorsed to show what was missing. The postal employee will not wait while large sums of money or coin are counted if the damage is so slight as to indicate that nothing is missing.

.47 WHEN NOT DELIVERED

Postmasters may require customers to call for registered mail at the post office if delivery by carrier would not be safe.

161.5 PROCEDURES AT MAILING OFFICE

.51 ACCEPTING

.511 *Endorsing*

Stamp each article on the left portion of the face side with the regulation rubber stamp *Registered No.* _____. Enter the registration number. Endorse articles too small to accommodate the official endorsement with the letter *R* followed by the registration number.

.512 *Assigning Registration Numbers*

Number the articles and receipts consecutively. Retain mailing office records in numerical order. File records of firm registrations to permit ready identification in case of inquiry or claim. Assign blocks or series of numbers as follows:

a. At all post offices having stations or branches, assign blocks of registration numbers for the main office and each station and branch. The number blocks should approximate the annual number of window registrations at the points involved. Repeat the series of numbers when the last number is used.
b. All other post offices use a series of numbers approximating the annual volume of window registrations. Repeat the series when the last number is used. Keep the number of digits in the number series to a minimum.
c. Assign blocks of registration numbers to firm mailers, keeping the number of digits to a minimum. Use Form 3857, *Assignment of Number Blocks for Registered, Insured, Certified, and COD Mail.* If prefixes have been used or assigned to firms, take action, on a gradual basis if considered necessary, to reassign blocks of numbers without prefixes. This instruction regarding prefixes does not apply to a few of the larger post offices to which special authority has been granted for the limited use of prefixes.
d. In areas where carriers are required to accept mail for registration, assign 100 numbers to each carrier. For rural carriers, use the route number as the first number of the series.

.513 *Issuing Receipts*

Issue receipts on the following forms:

a. Form 3806. Prepare duplicate for your record. After the four receipts on the sheet are issued, detach entire sheet of carbon entries and file.
b. Form 3877 (firm mailing bill) when senders use this form. See 161.35. Check articles against entries on the form. If sender does not want to wait for descriptive receipt, issue bulk receipt on Form 3824, check mailing, and issue regular receipt later. Use Form 3876, *Notice of Firm Mailer—Incorrect Fees,* to notify firm mailers of payment of incorrect fees or surcharges.
c. Special firm mailing bills or recapitulation sheets, which have been approved by the Office of Mail Classification, Rates & Classification Department, Washington, DC 20260.
d. Form 3896, *Carrier Registration Book,* issued by carriers to senders of registered mail. Carrier must not assist in preparation and sealing of such letters. Carriers must deliver the registered mail to the postmaster or his representative. When a rural carrier accepts mail for registration and it is addressed for delivery on his route, he may deliver it before returning to the post office. The carrier must cancel postage stamps at time of delivery. He must enter the disposition of the mail on the receipt (Form 3896) and also obtain the signature of the postmaster or station superintendent on it.
e. If the carrier loses his registration books or is unable to account satisfactorily for missing receipt, report facts immediately to the postal inspector in charge.
f. If requested to do so by the sender, show on the mailing receipt and post office record the time the article was accepted for mailing. Write the time in ink above the postmark block on individual receipts or next to the space for the name of the accepting employee on firm mailing bills.

.514 *Postmarking.*

Postmark letters twice on the back on the crossing of the upper and lower flaps or, if paste-on return receipts are used, postmark partially on the receipt

and partially on the flaps of the letter. Postmark packages sealed with paper strips across opposite edges of the strips. Use additional postmarks if this would make rifling more difficult. Postmark on the address side registered mail sealed on the address side. When large mailings consist of letters, containing written or printed matter of little value, the envelopes may be postmarked once on the back by running them through a canceling machine. Postmark once on the back of the tag of sack jackets.

.515 *Canceling Stamps.*

Cancel the postage stamps, using rubber or hardwood canceler.

.516 *Free Return Receipts*

Do not charge for return receipts for free registered mail of the Postal Service. Use such receipts only when it is essential that a signed receipt be on file at the mailing post office. Do not request return receipts for official post office remittances or postal supplies.

.52 PREPARING FOR DISPATCH

.521 *Rotary Lock Pouches.*

Process registered mail for dispatch in rotary-lock pouches as follows:

a. Use rotary-lock pouches when quantity or bulk of mail justifies, except when dispatch is to be made by air. (See 161.8.)
b. Bill rotary-lock pouches to offices having rotary lock keys. Enter the following information on bill Form 3852, 3853, or 3854, with ball point pen:
   (1) Lock and rotary number.
   (2) Bill and page number, if necessary.
   (3) Destination of dispatch.
   (4) Time and means of dispatch, if considered necessary.
   (5) Postmark on bill and coupon. Mobile unit clerks may use their stamps as a postmark.
   (6) Registration numbers and post offices of origin of individual articles. ZIP Code or an abbreviation of the office of origin may be used.
   (7) APO or FPO numbers will be used as the office of origin on military mail originating from overseas military post offices.
   (8) Numbers and offices of origin of jacket envelopes, and fixed and rotary-lock numbers and offices of origin of rotary-lock pouches.
   (9) If the Form 3830–A covering a rotary lock pouch is completed by the person who made up the inner bill of the pouch, the control number from Form 3830–A may be entered on the office copy of the

pouch if there are no other registered articles to be dispatched. When only a rotary lock pouch or sack jacket is to be dispatched in an iron-lock pouch, enclose the dispatch card in registry bill envelope P–9 and attach the envelope to the staple of the rotary lock pouch or sack jacket.

(2) Enter the control number from Form 3830, 3830–A, or the dispatch bill on Label 89 or the orange pouch label. Seal the envelope container with gummed Label 89. Postmark the label. The destination shown on Label 89 must be the same as that shown on the slide label of the iron lock pouch in which dispatched. Enter dispatch information to assure proper dispatch on the orange pouch label when necessary. This information must be the same as that shown on the slide label of the iron lock pouch in which dispatched.

(3) If the registry container envelope or orange labeled container pouch contains special delivery or transit mail and is to be enclosed in a city iron lock pouch, check the appropriate block on Label 89 or endorse the orange pouch label to indicate that special delivery or transit mail is enclosed. Place the letters *SD* for special delivery or *T* for transit on the right end of the orange pouch label, or check the appropriate block on Label 89.

d. Pouch as follows:

(1) Do not place registered mail in an iron lock pouch until it is ready to be closed.

(2) Registry section employees may act as dispatchers when physical conditions indicate this would be preferable and less expensive.

(3) When the procedure in (2) is not followed, list registered mail on a dispatch bill in duplicate by envelope container number preceded by the letter *C*, by orange labeled pouch container number preceded by the letter *P*, by rotary-lock number and by the registry number of any outside pieces preceded by the letter *O*. Obtain receipt from the dispatch unit in duplicate, deliver one copy of the bill with the articles and retain the other in the registry section. Dispatch units should retain copies of transfer bills on file. Designate an employee of the outgoing mail section to pouch registered mail and make dispatches. The employee who actually pouches mail should initial the entries on the mailing section copy.

.525 *Way Pouches*

Each post office opening a way pouch shall open the registry container envelope or registry container pouch, receipt for the registered articles, and bill and dispatch in a registry container envelope or registry container pouch all registered articles for onward dispatch in the way pouch, including registered articles of local origin.

.526 *Numbered Seal Pouches*

Used in the air service. See 161.84.

.527 *Outside Registered Articles*

Prepare dispatches in the same manner as provided in 161.83 for outside registered articles sent by air. Such dispatches must be billed to the next postal installation that will handle the mail.

.528 *Special Containers*

When use of a special container has been authorized by the Postal Service between designated post offices or AMF's, dispatch rotary locked or numbered seal pouches within this container without reenclosing in another pouch. Dispatch *Outside* registered mail within this special container where practicable. List descriptively the rotary locked and numbered seal pouches, and

outside registered articles, enclosed in the container, on the proper manifold dispatch bills and enclose the bill with the registered mail. Close the container with a rotary lock or numbered seal, as directed, and bill by the rotary lock or seal number.

.53 DISPATCHING

.531 *To and From Stations and Branches*

Treat registered mail transmitted between main offices and stations or branches and between stations and branches in the same manner as between post offices, except that main offices must handle jackets and rotary-lock pouches addressed to an independent branch or station as transit matter.

.532 *To and From Military Installations*

Dispatch registered mail to or from postal facilities serving military installations within the United States in the same manner as other post offices, except as follows:

a. Make up and label jackets or rotary-lock pouches direct to postal facilities serving military installations when quantity justifies.

b. Postal facilities serving military installations may make up dispatches of outgoing registered mail in direct jackets or rotary-lock pouches when quantity justifies. The main office must not open these pouches or jackets being dispatched through the main office.

.533 *To Naval Vessels*

Dispatch registered mail as follows:

a. Make up and dispatch registered mail for United States naval vessels in the same manner as for domestic destinations.

b. Send to post office through which addressed.

c. Address registered jackets for United States naval vessels to the *Navy Postal Clerk, U. S. S. (Name of ship)* and endorse them *Navy mail.*

d. In making up closed registered mail for naval vessels, enter mail on a dispatch bill and enclose bill with the registered mail.

.534 *Official Registered Mail to or From Government Agencies Located in Areas Where the Domestic Service Operates*

Dispatch official registered mail of Government agencies and their field activities requiring overseas dispatch BETWEEN points where the domestic service operates (see part 112 for list of areas) only on carriers (air or surface vessels) of U.S. registry, as follows:

a. Interior offices making up direct jackets or pouches containing this official registered mail requiring overseas dispatch between destinations indicated should mark them *Official Mail.*

b. Offices billing and turning over official registered shipments direct to overseas carriers serving the areas indicated should select only U.S. air or surface vessels for these shipments.

.535 *Hand-to-Hand Receipts*

Exchange these receipts under the following conditions:

a. For dispatches when:

(1) A large volume of registered mail is exchanged directly by postal employees between postal units.

(2) The declared value of an individual shipment meets the coded value requirement set forth in special instructions issued by Headquarters to Regional Postmasters General.

(3) The aggregate value of a particular dispatch warrants such handling, as determined by the director, logistics division, from the dispatching point to the first transfer point.

b. Where hand-to-hand receipts are used as outlined in a(3), endorse these receipts to show only those points between which the hand-to-hand receipts are used for the particular dispatch involved. Specific instructions covering this type of dispatch will be issued by the director, logistics division.

.77 OVERNIGHT RETENTION

.771 *Valuable Articles*

Place valuable articles in vault or safe, and bill each article by registration number and office of origin. See 161.932 for definition of *valuable* for internal handling.

.772 *Ordinary Value Articles*

Place articles in vault, safe, or locked compartment. Bill by number and office of origin of the articles. If vault, safe, or locked compartment is not available, use a rotary lock pouch, and make an appropriate record. Keep record in safe place other than with the rotary lock pouch. If a loss is indicated, report shall be made to the Inspection Service.

.773 *Removing Articles*

Check all articles removed from vault, safe, or rotary lock pouch against bill enclosed with them. Report immediately any discrepancies to supervisor.

.774 *Protective Equipment Available*

See section 641.451 for details on protective equipment available and, criteria for requisitioning proper item.

161.8 AIR TRANSPORTATION

.81 BULKY SHIPMENTS

The following items classed as bulky should be given surface dispatch unless specific contrary instructions are issued by the director, logistics division:

a. Cartons of postage, and other stamp stock, and food.
b. Money order forms.
c. Savings bond stock.
d. Sack jackets. (International mail).
e. Other bulky shipments to and from foreign countries containing books or other merchandise items.

.82 BILLING

Except as stated in .83 and .84, bill registered mail receiving air service, as follows:

a. Bill in the same manner as required for other registered mail. Do not use orange labeled pouches as containers in the air service. See 161.521 through 161.524.
b. Show route and flight number.
c. Endorse sealed registry jackets and pouch labels *Air*.
d. Airport and air stop offices may use official airline code designations on registry bills covering dispatches of registers to other airport mail facilities or air stop offices.
e. When numbered sealed pouches for the same dispatch are reenclosed in two or more snap seal pouches, the registered mail contents of each individual snap seal pouch shall be billed separately on a dispatch card enclosed in a P–9 envelope.
f. When mail is due to be interline transferred between air carriers during night hours, bill the registered mail to the AMF or SCF at the en route transfer point for rehandling.

.83 OUTSIDE REGISTERED ARTICLES

.831 The first air stop point must bill each outside registered article on a separate dispatch card, Form 3830 or Form 3830–A, to the final air stop point or massing point. Show on the dispatch card (1) the registration number of the article preceded by the capital letter *O*, (2) the office of origin

and destination, the latter preceded by the word *TO*, (3) the route and trip number.

.832 Place the dispatch card in a P–11, *Registry Bill Container Envelope*; tuck the flap of the envelope inside, making sure the flap is placed under the card to prevent the card from slipping out of the envelope.

.833 Attach the P–11 envelope to the address side of the article, in a manner which will not interfere with the address or endorsement. Do not use Label 87.

.834 Show routing on the P–11 envelope.

.835 If there are more than three outside registered articles for the same destination, list all of the articles on one bill or card. Enclose the bill or card in a P–11 envelope attached to one of the outside registered articles. Attach Label 87 to each of the remaining articles, show the routing, and number the labels appropriately as follows: 1 of 4, 2 of 4, 3 of 4. The article bearing the P–11 envelope would show 4 of 4.

.84 NUMBERED SEAL POUCHES

.841 *Billing*

Bill outgoing dispatches as follows:

Enter the number of the seal in the space on the inside dispatch bill identified for the seal number. Use the letter S before the seal number on the bill. Bill the registered article as previously described. Bill the sealed pouch by the seal number preceded by the letter S on Form 3830 or 3830–A. Place the dispatch card in the P–9 envelope.

.842 *Placing Seal and P–9 Envelope on Pouch*

Place the numbered seal, item 0–817, and P–9 envelope on the pouch in the following manner:

a. Close hasp over the staple and place the P–9 envelope, flap end down and wording up, on the staple.
b. Thread the small plain end of the seal, with the number down, through the bottom of the staple toward and through a grommet of the pouch.
c. Bend the seal back and thread the plain end through the red head of the seal.
d. The number on the seal should appear on the outside of the seal.

.843 *Enclosing Sealed Pouch*

Enclose the numbered seal pouch or pouches in another pouch and close with a snap seal. If more than one numbered seal pouch is enclosed in a single snap seal pouch, bill all the numbered seal pouches on one dispatch card to be enclosed in a P–9 envelope attached to one of the enclosed pouches, except as provided for in CON–CON instructions.

.844 *Transit Pouches*

Handle transit pouches as follows:

a. *Billing.* When receipts must be exchanged between employees in the registry unit and those on the workroom floor (see 161.732), show the letter S before the seal number on the transfer bills.
b. *Checking and Rebilling.* In the registry unit remove the dispatch card or bill from the P–9 envelope. Check the seal number or numbers against the entries on the bill. Complete the receipt and return it promptly to the dispatching unit. Prepare another card Form 3830 or 3830–A and insert it in the P–9 envelope for onward dispatch. If the seal is in bad order, proceed in accordance with 161.845c.
c. *Enclosing Sealed Pouch.* Enclose the numbered seal pouch or pouches in another pouch and close it with a snap seal.

.845 *Incoming Dispatches*

Handle incoming dispatches as follows:

a. *Condition of Seal.* Examine and test the seal to determine if it is intact.

b. *If Seal Is Intact.* Take the following action:

(1) Check the seal number against the number shown on the dispatch card in the P-9 envelope. If they agree, cut the numbered tin-band seal (Item 0-817-A) at the end away from the ball (1 thickness of metal) with the shears (FSN-5110-221-1035) and remove the seal. Do not discard it until checking is completed.

(2) Check the number of the seal and the contents of the pouch against the enclosed dispatch bill. Do not return the registry dispatch coupons of the inside bills of numbered seal pouches unless discrepancies or irregularities are noted.

(3) Complete the dispatch receipt portion of Form 3830 or 3830-A. Return it promptly to the dispatching unit.

c. *If Seal Is Not Intact.* Take the following action:

(1) If the seal is not properly closed, or if there appears to be evidence of tampering, immediately call a supervisor to witness further checking of the dispatch.

(2) If the seal number shown on the dispatch card Form 3830 agrees with the number on the seal, complete the dispatch receipt to show the exact nature of the irregularity, such as *seal not closed.* If the numbers on the seal and dispatch card do not agree, show the discrepancies on the receipt portion of the card. Record the exact nature of any irregularity on the bill portion of Form 3830 or 3830-A. Send the the receipt portion to the dispatching unit promptly.

(3) Cut the seal and check the contents in the presence of the supervisor. If there are any irregularities or discrepancies in the contents as billed, report them on the bill coupon to the dispatching office. Both the opening employee and the supervisor shall sign the pouch bill and coupon. *If there is evidence of tampering or loss of contents, hold out the seal, pouch, outer bill and pouch contents bill and notify the Inspection Service immediately.*

.846 *Protection of Numbered Seals*

Numbered seals will be issued to registry clerks by the seal control officer. Unlocked seals may not be removed from the registry section except by the seal control officer. Seals must not be placed near doors or service windows that are accessible to unauthorized persons.

.85 OPENING ENVELOPE AND POUCH CONTAINERS AND JACKETS

Follow the procedures in 161.74.

.86 DISPATCHING

.861 Post offices in the area of an airport mail facility, and AMF's use selected dispatches for registered mail rather than dispatching on all authorized flights.

.862 When estimated time of delivery to addressees will not be affected, accumulate registered mail to permit make up of warranted city or SCF pouches, in order to minimize billing operations. Avoid multiple dispatches of small volume to destination AMF's or SCF's unless it is known that delivery to addressees will be expedited.

.863 Do not include registers in snap seal pouches addressed to cities where an AMF is located unless the director, logistics division, of the destination city has authorized this procedure.

.864 In exceptional cases where there is more than one large post office served by an AMF, the director, logistics division of the destination region, may authorize registered mail to be included in incoming snap seal pouches labeled direct to those cities which are not SCF's, if such action is justified by the quantity of mail or local conditions.

.865 Dispatch registered mail receiving air service, between the local post office and AMF by either mail messengers or motor vehicle employees. These employees must give and take receipts on Forms 3852, 3853, or 3854, for rotary lock and numbered seal pouches. See 161.535. If the pouches are reenclosed in snap seal pouches, label the snap seal pouches to the local AMF, or post office.

.866 Registered mail dispatched to other AMF's shall be dispatched according to CON-CON instructions.

.87 MISSED CONNECTIONS

.871 *Interrupted Service*

Process transit registered mail which is stopped enroute because of missed connections or cancellation of planes as follows:

a. Open and work numbered seal pouches, if circumstances permit, and—

(1) Endorse, postmark, and send labels to office of address under separate cover.

(2) Keep a record of the receipt of pouches handled in the unit.

(3) Complete coupons of inside dispatch bills, endorse *Distributed at* _____ and return copy to offices which made up the original pouches.

b. Remove registered mail from container pouches and envelopes. Complete and return coupon of bill and rework registered mail.

c. If time does not permit, dispatch mail intact to destination.

.872 *Opened in Transit*

If a snap-seal pouch containing registered mail is opened at any point in transit and the contents are dispatched intact, sign a statement to that effect on bill and its coupon. Keep a record of transaction at the point where pouch is opened.

.88 RECEIPTS FOR DISPATCHES

.881 *Numbered Seal Pouches and Outside Articles*

a. Complete and return the receipt portions of cards covering these dispatches. See 161.72.

b. At the dispatching unit, follow the procedure specified in 161.54.

.882 *Dispatch Discrepancies*

a. Return the coupon of the inside numbered seal pouch or jacket bill only when discrepancies or irregularities are noted.

b. When there is a discrepancy between the number of articles entered on the bill and the number received, take the following action:

(1) If apparent that the discrepancy is due to a clerical error, make appropriate notation on the bill and coupon. Return the coupon postmarked, signed, and endorsed to the post office or other dispatching point. Hold the pouch, seal or jacket until the discrepancy has been cleared.

(2) When it appears from the condition of the jacket or pouch that the discrepancy is the result of depredation, or probable loss is indicated, make appropriate notation on the bill and coupon. Return the postmarked and signed coupon to the dispatching office. Hold out of service the pouch or jacket, pouch label, and the lock or seal until the discrepancy is explained or instructions are received from a postal inspector.

.12 CLASSES OF MAIL TO WHICH APPLICABLE

.121 Third- and fourth-class mail.

.122 Priority mail, or mail mailed at the first-class rate, which contains third- or fourth-class matter (may contain incidental first-class enclosures.) Sealed envelopes should be endorsed "Third-Class Mail Enclosed" or "Fourth-Class Mail Enclosed", in addition to the first-class or priority mail endorsement.

.123 Official Government mail bearing *Postage and Fees Paid* endorsement.

.124 The mail must bear the complete names and addresses of sender and addressee.

.13 NOT ACCEPTABLE FOR INSURANCE

.131 Parcels containing matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

.132 Nonmailable matter.

.133 Articles that are so fragile as to prevent their safe carriage in the mail regardless of packaging.

.134 Articles not adequately prepared to withstand normal handling in the mail, see part 121. As a general rule, any package that is mailable should be insurable.

162.2 FEES AND LIABILITY

.21 FEES (IN ADDITION TO POSTAGE)

Liability	*Fee*
$0.01 to $15	$0.40
15.01 to 50	.60
50.01 to 100	.80
100.01 to 150	1.00
150.01 to 200	1.20

Liability for insured mail is limited to $200

.22 PAYMENT OF FEES AND POSTAGE

Insurance fees must be prepaid in addition to the postage except on official mail sent under the provisions of part 137. The mailer guarantees to pay return and forwarding postage unless he writes instructions on the wrapper or envelope not to forward or return the mail.

162.3 ADDITIONAL SERVICES

.31 RESTRICTED DELIVERY

Restricted delivery may be obtained as set forth in 165.3 and by the payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery other than to the addressee, see 165.34.

.32 RETURN RECEIPT

The sender may obtain a return receipt, Form 3811, by paying the required additional fee as provided in 165.2.

162.4 MAILING

.41 WHERE TO MAIL

Mailers must mail parcels that they insure at a post office, branch, or station, or give them to a rural carrier. They must not be deposited in mail drops at post offices, nor in or on street mail boxes. They must not be left on, but may be placed in, rural mail boxes.

.42 INQUIRY AS TO CONTENTS AND PREPARATION

The postal employee at the window is required to ask whether the package presented for insurance contains fragile, perishable, or flammable matter. If the package does not contain such matter and to all outward appearances is adequately prepared, no further inquiry as to contents will be made. If the package contains such matter, detailed inquiry will be made to determine whether contents are admissible in the mail and are adequately packed.

.43 INDIVIDUAL RECEIPTS FOR MAILING

Mailers are issued a receipt for each insured parcel mailed on one of the following forms:

a. Form 3813, *Receipt For Domestic Insured Parcel*, when the package is insured for $15 or less.
b. Form 3813-P, *Receipt For Insured Mail, Domestic-International*, when the package is insured for more than $15.

The post office keeps no record of the mailing of insured packages. Mailers must enter the name and address of the addressee on the receipt and retain it. Mailers must exhibit the receipt if claim for loss is made. The receipt should be shown if an inquiry is filed. A telephone request for inquiry is acceptable if the mailer can furnish particulars of mailing from his receipt. A temporary receipt showing only the total number of parcels accepted may be issued when a large number of articles are mailed. The permanent receipt will be issued as soon as possible.

.44 FIRM MAILINGS

.441 *Firm Mailing Books*

Mailing books, Form 3877, are furnished without charge to customers who mail an average of three or more parcels at one time. Spaces are provided for entering the description of parcels to be insured. Any alterations must be initialed by the mailer and accepting employee. The sheets of these books become the senders' receipts. The books must be presented with the parcels to be mailed. Following are instructions for their use:

a. Parcels to be insured for $15 or less are not to be numbered and should be listed on separate sheets or grouped together. Prepare one copy only.
b. For parcels to be insured for more than $15, the postmaster will assign a series of numbers. The mailer must number the articles and the items in the book to correspond.
c. The parcels must be conspicuously endorsed with the stamped or printed official insurance endorsement.
d. All entries made in firm mailing books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

.325 While all of the following parts are not required on each COD tag, the tags should be arranged in order of usage from right to left (top to bottom in multi-layer versions) as follows: Mailer's receipt, mailing office's file copy, delivery employee's coupon, remittance coupon, delivery office coupon.

.326 Tags should be on card stock. Multi-layer forms may be on paper stock if the bottom copy is an extra copy (in addition to those listed in .321) which is firmly glued to the article. This is necessary to reduce the chance of loss resulting from a lightweight tag being torn off.

.327 The COD tag may incorporate an extra part to serve as an address label. This may be the bottom layer of a multi-layer form or the extreme left section of a card-stock form. The address label shall be firmly attached to the parcel by glue or other means.

.328 To facilitate processing, mailers, if volume warrants, may be authorized by the postmaster to type or computer print *mailed at* with the date and place of mailing in the areas of the COD tag calling for a postmark of the mailing office.

.33 NURSERY STOCK SHIPMENTS

Firms mailing nursery stock may print special COD tags bearing instructions as to disposition of shipments that are not immediately delivered. These tags must contain a remittance coupon that will be returned with the money order. The following rules apply:

a. If the sender does not desire to have the undeliverable parcel disposed of to the highest bidder, the sender's instructions on the back of the delivery-office portion of the COD tag (1), and on the remittance coupon (2), should read:
   (1) If addressee refuses to pay charges for any reason, deliver at once without collecting the charges. Notify sender at once if parcel is not delivered, and if no reply is received in 30 days, destroy parcel. See remittance coupon for further instructions.
   (2) Return this coupon with money order. If parcel is delivered without collection of charges, or is destroyed after 30 days, check disposition and send coupon to sender in penalty envelope.
      ☐ Delivered to addressee without collecting charges.
      ☐ Destroyed after 30 days.

b. If sender desires to have the undeliverable parcel disposed of to the highest bidder, the sender's instructions on the back of the delivery office portion of the COD tag (1), and on the remittance coupon (2), should read:
   (1) If addressee refuses to pay charges for any reason, deliver at once without collecting the charges. Notify sender at once if parcel is not delivered, and if no reply is received in 30 days, sell to highest bidder and remit proceeds less commission. If sale cannot be made, destroy parcel. See remittance coupon for further instructions.
   (2) Return this coupon with money order. If parcel is delivered without collection of charges, is destroyed after 30 days, or is sold, check disposition and send coupon to sender in penalty envelope.
      ☐ Delivered to addressee without collecting charges.
      ☐ Destroyed after 30 days.
      ☐ Sold for $_____ Remittance, less commission, herewith.

163.4 MAILING

.41 PREPARATION FOR MAILING

.411 COD articles will be identified by a number which the mailer will put on each section of the COD tag. The postmaster will assign a series of numbers using Form 3857, *Assignment of Number Blocks for Registered, Insured, Certified, and COD Mail*. The postmaster may authorize the mailer to use customer order numbers or computer generated numbers when such numbers will not hinder the accepting office's procedures. The use of prefixes is discouraged, but not prohibited. The number shall not exceed six digits plus a prefix, if a prefix is used. The use of suffixes is not permitted.

.412 A COD tag must be securely affixed by the sender to each COD article. The tag must show article number, names and addresses of sender and addressee, amount due sender, and amount of money order fee necessary to make remittance. Stock tags are furnished by the post office without charge. There are two types of tags eyeletted for tying to parcels and one uneyeletted type for attaching by gummed tape. Specially printed COD tags approved by the Postal Service may also be used (see 163.32). The eyeletted tag, Form 3816, *COD Article Tag—Delivery Employee and Mailing Office Coupon—Mailer's Receipt*, composed of delivery office coupon, delivering employee's coupon, mailing office record and the mailer's receipt, is intended for use by customers mailing fewer than three articles at one time.

.413 The particulars required on the tag must be filled in by the sender with ink, ball-point pen, typewriter or computer printer. The Postal Service is not responsible for errors by senders in stating charges to be collected.

.414 When the COD remittance is to be sent to someone other than the actual mailer, the name and address of the person to whom the remittance is to be sent must appear in the proper spaces on the address side of the delivery office coupon. The name and address of the person to whom the remittance is to be paid must also be shown as sender on the COD parcel itself, together with directions for return if undeliverable.

.415 Mailers of three or more parcels per mailing will present a listing (in duplicate) of parcels to be mailed at the time of mailing. The mailer may use Form 3877-A, *Firm Mailing Book for Use in Acceptance of Insured, COD, and Certified Mail*, which is provided to customers without charge or, when authorized by the postmaster, he may prepare typewritten or computer prepared listings which provide the equivalent data as the Form 3877-A. All entries made in firm mailing books will be made by typewriter, ink, or ball-point pen. All unused portions of the *addressee* column will be obliterated by drawing a diagonal line through the unused portion.

.416 Mailers of fewer than three parcels per mailing may obtain receipts on the sender's receipt portion of the COD tag. The post office will acknowledge receipt by postmarking the sender's receipt.

.417 In addition to the COD tag, COD parcels will bear an address label complete with the names and addresses of the sender and the addressee. Where the COD endorsement has not been made part of the address label, the endorsement showing the amount due the payee and the money order fee necessary to make the remittance should be boldly indicated by rubber stamp or other means on the front surface of the parcel near the address label. (COD endorsements must also appear on the COD tag.) The address label may be printed as an additional part of the COD label in accordance with 163.327. The address label should identify the parcel as a COD parcel and should be firmly attached by glue or other means.

.42 WHERE TO MAIL

COD parcels must be mailed at a post office, branch, or station, through a rural carrier, or at a personnel or nonpersonnel rural station or branch. They may not be placed in mail drops at post offices, nor in or on street mail boxes. They may not be left on, but may be placed in, rural mail boxes.

Part 164

INDEMNITY CLAIMS

164.1 GENERAL INSTRUCTIONS ON FILING AN INSURED (INCLUDING COD) MAIL CLAIM

.11 WHO MAY FILE

.111 A claim for complete loss (including COD) may be filed only by the mailer.

.112 A claim for partial loss (including COD) may be filed by the mailer or addressee.

.113 A claim for damage (including COD) may be filed either by the mailer or addressee.

.12 HOW TO FILE

.121 Domestic Claims

A customer may file a claim at any post office, classified branch, or station. Form 3812, *Request for Payment of Domestic Postal Insurance*, dated Nov. 1971 or later, is used to request payment for the loss or damage of insured mail. The form is a four-part snap-out set which includes two copies of Form 1510-A, *Inquiry for the Loss or Rifling of Mail Matter*, and one copy of Form 3841, *Post Office Record of Claim*. DO NOT COMPLETE A SEPARATE FORM 1510 or FORM 3841 FOR INSURED OR COD CLAIMS.

.122 International Claims

Claims for international insured mail are to be handled in accordance with Chapter 9, Publication 42—*International Mail*.

.13 WHEN TO FILE

.131 Loss Claims

The mailer may not file a claim until 15 days after the date of mailing for insured and registered articles and 45 days after the date of mailing for COD articles. *EXCEPTION:* Claims for loss shall not be submitted until 75 days after the date of mailing for parcels sent by surface ocean transportation between:

a. The contiguous 48 states and any state, territory or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).
b. Any state, territory or possession of the United States located outside the contiguous 48 states and any other state, territory or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).

.132 Damage Claims

Customers should file damage or partial loss claims immediately.

.133 Insurance (including COD) Claims

Indemnity claims must be filed within one year from the date the article was mailed.

.14 INFORMATION REQUIRED

.141 Evidence of Insurance

The customer must submit evidence that the package was insured. Acceptable evidence includes either:

a. The original insurance receipt issued at time of mailing. Post offices may annotate the appropriate line(s) in firm mailing books *Claim filed on (date)*, and submit a photocopy with the claim form.
b. The wrapper, if it has the name and address of both the mailer and the addressee and the appropriate insurance endorsement.

.142 Evidence of Value

The customer (including Government agencies which have insured official mail) must submit evidence of value. The Postal Service will not undertake to obtain estimates of value. Acceptable evidence may include any one of the following:

a. Sales receipt.
b. Invoice.
c. Statement of value from a reputable dealer.
d. Catalog value of a similar article.
e. Statement describing the articles lost or damaged, including where purchased, date, amount, and whether the articles were new or used. If handmade, price of material used and labor. Describe the items in sufficient detail for the postal data center to determine that the value claimed is not excessive.
f. Paid repair bills, estimate of repair cost, or appraisals may be used in lieu of estimate of value in the case of claims for partial damage. When a question exists whether cost of repair exceeds actual value, other evidence of value may be required.

.143 Replacement Shipments

If a replacement shipment has been sent to a customer to replace original article(s) lost, indicate *Replacement Shipment* on claim (Form 3812) and obtain a copy of the invoice evidencing the replacement and attach to claim form.

.15 ASSIGNMENT OF RESPONSIBILITIES

.151 Post offices, classified stations and branches will:

a. Accept claims when evidence of insurance, statement of value (including proper documentation), and required signatures are furnished.
b. Assist customers in preparation of Form 3812.
c. Complete post office portion of Forms 3812.
d. Route completed Forms 3812 in accordance with section 164.4.

.152 The St. Louis Postal Data Center will adjudicate and pay or disallow all domestic insured and COD mail claims.

.16 PAYABLE AND NONPAYABLE CLAIMS

.161 *Subject to 164.162, insurance for loss or damage to registered, insured or c.o.d. mail within the amount covered by the fee paid is payable for:*

a. Actual value of lost articles, less depreciation for used items.
b. Cost of repairing a damaged article or replacing a totally damaged article, not exceeding actual value of the article.
c. A c.o.d parcel for which no remittance has been received by the mailer.
d. Death of baby poultry due to physical damage to the package or delay for which the Postal Service is responsible. In the absence of definite evidence showing responsibility for death of baby poultry, the Postal Service will be presumed to be at fault if 10 percent or more are dead on delivery, and indemnity will be paid for all dead poultry; otherwise the Postal Service will not be presumed to be at fault (see section 164.162e and 124.33).
e. Costs incurred in duplicating or obtaining documents, or their original cost if they cannot be duplicated. The fee paid to an attorney to obtain duplication of valuable papers and other actual, direct and necessary expenses may be included.
f. The extra cost of gift wrapping if the gift wrapped article was enclosed in another container for handling in the mail.
g. Cost of outer container if specially designed and constructed for goods sent as registered, insured, or c.o.d mail.
h. The established market value, as determined by a recognized dealer selected by the claimant, of numismatic coins or stamps having philatelic value.
i. Federal, State or city sales tax paid on articles which are lost or totally damaged.
j. Postage (not fee) paid for sending damaged articles for repair. The Postal Service must be used for this purpose. Other reasonable transportation charges may be included if postal service is not available.

.162 *Nonpayable Claims. Payment will not be made in excess of the actual value of the article or in excess of the maximum amount covered by the fee paid. Further examples where indemnity may not be paid are as follows:*

a. The article was not rightfully in the mail. This includes c.o.d. articles sent to addressees without their consent for purposes of sale or on approval.
b. Claim is filed more than one year from the date the article was mailed.
c. Evidence of insurance coverage has not been presented.
d. The mailer failed to state at time of mailing the full value of a registered article (see section 161.24).
e. Loss, rifling, or damage occurred after delivery by the Postal Service.
f. Claim is based on sentimental loss rather than actual value.
g. The loss resulted from delay of the mail, except as in section 164.161(d).
h. The claim is for consequential loss rather than for the article itself.
i. Contents froze, melted, spoiled or deteriorated.
j. The parcel was packaged in such a way that it would not have reached the addressee in good condition in the ordinary course of the mail.
k. The damage consisted of abrasion, scarring, or scraping of suitcases, handbags, and similar articles which were not properly wrapped for protection.
l. The death of baby poultry was due to shipment to points where delivery could not be made within 72 hours from the time of hatch.
m. Death of honeybees and harmless live animals which was not the fault of the Postal Service (see section 124.332).
n. Failure on the part of the second party (the addressee if claim is filed by the mailer, or the mailer if the claim is filed by the addressee) to cooperate in the completion of the claim.

.17 USED ARTICLE(S) LOST OR DAMAGED

The St. Louis Postal Data Center depreciates used article(s) lost or damaged based on the following:

a. Used articles with a life expectancy of ten (10) years are depreciated at ten percent (10%) per year.
b. Used articles with a life expectancy of twenty (20) years are depreciated at five percent (5%) per year.

164.2 PREPARATION OF INSURED AND C.O.D. MAIL CLAIMS

.211 The accepting postal employee will enter a nine-digit claim number (see 164.42a) and complete items 1 through 10 on Form 3812. Type or print legibly with a ballpoint pen.

Press hard.

Item 1. Check appropriate block indicating reason for claim. If claim is for *Complete Loss of Contents* add: *CONT* after the block for Complete Loss. *No c.o.d. remittance* claims should be initiated as *Complete Loss.*

Item 2. Indicate use of airmail, if applicable.

Item 3. Check the appropriate block to indicate category of the claim.

Item 4. Indicate special delivery service, if applicable.

Item 5. Enter city, State and ZIP Code of *mailing post office* (not necessarily the post office where the claim is being filed). If the package was mailed at a station or branch, use the appropriate ZIP Code.

Item 6. Enter the date the package was mailed.

Item 7. Enter the date the claim is being filed.

Item 8. Enter city, State and ZIP Code of *post office of address.*

Item 9. Enter amount of postage paid, including special fees such as special delivery or special handling.

Item 10. Enter amount of insurance fee paid.

.212 Assist the claimant in completing items 11 through 14 and items 17, 18 or 19 of Form 3812 to the extent possible as follows:

Items 11 and 12. Names and addresses of mailer and addressee. The mailer should indicate the payee by checking the payee block in either item 11 or 12. The name of the payee indicated in items 11 or 12 *must* agree with the payee shown in the *Mail Check To* portion of the identification slip.

Item 13. Describe the articles lost or damaged; indicate the purchase price, the approximate year of purchase, whether the article was new or used, or the price of materials used and labor, if handmade. Describe the items in sufficient detail for the postal data center to determine that the value claimed is not excessive. Attach a supplementary sheet of paper to the claim form if necessary.

Item 14. Enter the total amount claimed excluding postage.

Item 15. MUST BE COMPLETED BY ADDRESSEE *ONLY.*

Item 16. Complete for COD mailings *only.*

Item 17. Complete if package was commercially insured. Include policy number, name and address of insurance company and amount of deductible, if appropriate.

Item 18. Have the *mailer* sign, date, and enter his telephone number in appropriate block. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative should sign the block labeled *BY.*

Item 19. Have the *addressee* sign, date, and enter his telephone number in appropriate block. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative should sign the block labeled *BY.*

.124 *Bulk Mailings*

Form 3606, *Sender's Statement and Certificate of Bulk Mailing of Matter Paid With Stamps or Meter Postage*, is used to issue certificates that a specified number of pieces have been mailed. These certificates are furnished only for mailings of identical pieces of first- and third-class matter paid with ordinary stamps, precanceled stamps, or meter stamps and for identical pieces of first- and third-class official mail bearing ordinary official mail indicia. A certificate will not be issued for bulk mailings paid with permit imprints.

.125 *Quantity Mailings*

When the number of articles ordinarily presented justifies such action, mailers must comply with the following:

a. When individual certificates on Form 3817 are desired, the forms must either be fixed by the stub to the articles or the forms must be consecutively numbered and fastened together. If the certificates are numbered, the articles should also be lightly numbered at a uniform place to permit relating the parcels and certificates.
b. When the articles are descriptively listed on firm mailing sheets or on special approved forms, they should, if practicable, be presented in the order in which they are entered on the sheets; otherwise, each entry must be consecutively numbered by the mailer, and the articles lightly numbered to show the sheet and line number on which they are described.

.14 ADDITIONAL CERTIFICATES AFTER MAILING

To obtain an additional certificate after mailing, the sender must present the original certificate and an additional certificate endorsed *duplicate* or *copy* showing the original dates of mailing. The additional certificate will be postmarked to show the current date.

.15 PAYMENT AND CERTIFICATION

Mailers must affix uncanceled stamps or meter stamps to cover the fee for certificates of mailing. The stamps will be canceled by the postmark of the mailing office. Signatures or initials of accepting employees are not required.

.16 PAYMENT AND CERTIFICATION FOR OFFICIAL MAIL

Certificates of mailing, prepared on Form 3606 for identical pieces of first- and third-class official mail and certificates prepared on Form 3877, Form 3877-A or other forms printed at the mailer's expense for certificates for three or more pieces of official mail of any class, need not have stamps affixed to cover the fee for the certificates of mailing. The forms must be presented to the post office in duplicate. The space provided on the forms for affixing stamps will be postmarked on the original and duplicate copies. Duplicate copies will be retained by the postmaster and forwarded at the end of each accounting period to the Manager, Government Revenue and Examination Branch, Accounting Division, U.S. Postal Service Headquarters, Washington, DC 20260, for billing purposes. Individual certificates of mailing prepared on Form 3817 or on forms specially printed at the mailer's expense for use as an individual certificate for ordinary official mail of any class must have stamps affixed to cover the fee for the certificate of mailing.

165.2 RETURN RECEIPTS

.21 PURPOSE

Return receipts furnish the mailer evidence of delivery. The fee paid for a return receipt does not insure the article against loss or damage. Return receipts may be obtained for mail which is sent COD, is insured for more than $15.00, or which is registered or certified. For international return receipts, see part 450 of Publication 42, *International Mail*.

.22 FEES (IN ADDITION TO POSTAGE AND OTHER FEES)

Requested at Time of Mailing:	
Showing to whom (signature) and date delivered	$0.25
Showing to whom (signature), date and address where delivered	.45
Requested After Mailing:	
Showing to whom and date delivered	.45

.23 PROCEDURES AT MAILING OFFICE

.231 The sender may request a return receipt, Form 3811, at the time of mailing by informing the postal clerk or writing on the mail *Return Receipt Requested* or *Return Receipt Requested Showing Address Where Delivered*. Firm mailers will complete the mailer's entries on the form, including the article identification number, attach the form, and *place the required endorsement on the article*. Individual mailers will also normally complete the mailer's entries on the form, but in those cases where the article is mailed with the endorsement and the correct postage but without Form 3811 attached, the clerk shall complete the form and attach it to the article.

.232 The sender may request a return receipt after mailing an article which is registered, certified, COD, or insured for more than $15.00 by paying the required fee. To do so, the sender shall complete Form 3811–A, *Request for Return Receipt (After Mailing)*, attach the proper postage, and mail the Form 3811–A to the delivery post office. The sender will be provided the date of delivery and the name of the person who signed for the article as shown in delivery records. Neither the signature of the recipient nor the address of delivery will be provided.

.233 In the event a mailer does not, after a reasonable period of time, receive a return receipt he has paid for, he may, within one year of mailing, request a duplicate if he can produce a receipt for such payment. The mailer may request the duplicate by presenting the receipt at any post office, branch, or station. The clerk shall assist the customer in completing Form 3811–A, postmark it, and mail it to the delivering post office. No charge for such duplicate is to be made.

.234 Payment for return receipts shall be noted on the receipt given for purchase of the COD, registry, certified mail, or insurance service.

.24 PROCEDURES AT OFFICE OF DELIVERY

.241 *Return Receipt, Form 3811*

a. Delivery employees shall obtain the signature of addressee or his agent. Delivery shall only be made to the addressee if so requested on the Form 3811, except as provided in 165.341. The address of delivery shall be filled in only if requested on Form 3811. The delivery employee shall examine the card for completeness and make any corrections necessary. Return receipts shall be given to the clearing clerk daily when the carrier returns to the post office.
b. The clearing clerk shall check all return receipts to make sure they are properly signed and dated. If the mail was restricted in delivery, check to see that delivery was not made to an agent, except as provided in 165.341. If delivery was improper, have addressee sign a second return receipt. Take prompt corrective action with delivery employees if return receipts are improperly handled or completed. Postmark all return receipts legibly and mail no later than the first working day after delivery. Undeliverable articles will be handled in accordance with 159.272 and the appropriate endorsement will be made in block 6 of Form 3811.

Part 166

SPECIAL DELIVERY

166.1 DESCRIPTION

.11 POINTS OF DELIVERY

Special delivery mail is given immediate delivery at the office of address during prescribed hours to:

a. Points within a radius of 1 mile of any post office, station, or branch (except contract and rural stations and branches).
b. Points within the city delivery limits of any post office having this service. These conditions apply to customers of rural routes residing within the 1-mile limitation.
c. Residences on rural routes if the road is passable and is located within one-half mile of rural route; otherwise, mail is left in the box. Delivery will be made by carrier on his regular trip.
d. Customers of nonpersonnel rural stations and branches if their residence is within one-half mile of the unit and if there is a passable road leading to it. Otherwise, mail is left in customer's box at the unit.
e. Points within one-half mile of a star route by the star route carrier who may make such delivery on his regular trip if the deviation from his regular route will not delay him in meeting schedule requirements.
f. Boxes erected on the city delivery boundary line and if customer lives no more than 3 blocks beyond and there is a passable walk or street to the residence. If there is no passable walk or street, the article is left in the box if the box will accommodate it. Otherwise, a notice is left in the box.

.12 TRANSPORTING AND DELIVERING

Special delivery mail is given preferential handling to the extent practicable in dispatch and transportation. Payment of a special delivery fee does not insure safety of delivery or provide for the payment of indemnity. Money or other valuables sent special delivery should be registered also. Insured, certified, and COD mail may be sent special delivery.

166.2 PAYMENT FOR SPECIAL DELIVERY

.21 SPECIAL DELIVERY FEES

Class of mail	Weight		
	Not more than 2 pounds (cents)	More than 2 pounds but not more than 10 pounds (cents)	More than 10 pounds (cents)
First-class and priority mail . .	$1.25	$1.50	$1.75
All other classes	1.75	1.85	2.15

.22 PREPAYMENT OF FEE

Prepay the special delivery fee by special delivery stamps, ordinary postage stamps, or meter stamps. The special delivery fee must be prepaid in addition to regular postage except on official mail sent under the provisions of 137.2.

.23 MARKING

Mailers should mark prominently the words *Special Delivery* preferably below the postage and above the name of the addressee as follows:

Frank B. White
2416 Front Street
St. Louis, MO 63125

SPECIAL DELIVERY

Mr. Henry Brown
24789 Alaska Avenue
Chicago, IL 60652

166.3 WHEN TO DELIVER

.31 HOURS OF DELIVERY

.311 *At City Delivery Offices*

a. Normal hours of delivery begin at 7 a.m. and end at 11 or 12 p.m., the ending time being contingent upon the last major mail receipt. However, depending on local conditions, first-trip delivery may begin as early as 6 a.m. or as late as 8 a.m. Delivery on the first trip should be completed within four hours of the messengers departure from the office.
b. Special delivery messengers should leave delivery unit ahead of regular letter carriers serving the same territory. Every effort should be made to deliver specials ahead of ordinary mail.
c. Deliver specials in business sections by regular letter carrier on first trip when delivery before 8:30 a.m. and ahead of special delivery messengers can be assured.

.312 *At Noncity Delivery Offices*

Normal hours of special delivery are 7 a.m. until closing hour of the post office. Unless there is a demand for earlier delivery, postmasters may authorize messengers to depart as late as 8 a.m. on the first trip. Specials arriving after the office is closed, but not later than 9 p.m., will be delivered provided the postmaster or an employee is on duty.

.313 *Sundays and Holidays*

Sunday and holiday deliveries should be scheduled as needed, but not to exceed a maximum of three delivery trips, one each in the morning, afternoon and evening.

.314 *Outside Regular Delivery Hours*

If specials arrive outside regular delivery hours, notify customers by telephone, if practicable; also notify customer if requested. Attempt to telephone rural customer if specials arrive after the rural carrier has departed on his route.

.315 *Unusual Conditions*

Postmasters and postal employees are expected to display interest and ingenuity to effect the prompt delivery of specials.

.32 FREQUENCY OF DELIVERY

A maximum of four daily city-wide trips will be made. If unusual conditions exist and postmasters feel additional trips are needed, obtain specific authority from the Regional Postmaster General. Fixed schedules will be established to connect major mail receipts to insure that the maximum available specials are delivered on each trip. Establish an additional mid-morning trip in the central business sections, if needed. Schedule one of the city-wide trips in the mid or late afternoon to provide delivery of all available specials to firms prior to the normal closing hour. The last city-wide trip should connect with the last major mail receipt; however, messengers should not leave after 9 p.m.

166.4 DELIVERY PROCEDURES

.41 TO WHOM DELIVERY MAY BE MADE

Ordinary special delivery mail is delivered to the addressee or to anyone authorized to receive his mail. At city delivery offices, special delivery mail, other than registered and insured, addressed to a post office box or to the general delivery, is delivered to the box or held for delivery through the general delivery window, unless the addressee has given written notice that such mail be delivered to his residence or place of business. When special delivery mail is received at a city delivery office addressed to a street address and the addressee usually receives his mail through a post office box or through the general delivery window, the mail is delivered as addressed, unless the addressee files a written notice directing delivery to his box or through the general delivery window. At offices not having city delivery service, all special delivery mail is delivered to the residence or place of business of the addressee, unless the addressee files a written request that such mail be deposited in his post office box or held for delivery through the general delivery window.

.42 DELIVERY IN MAIL RECEPTACLES

When no one is at the address to receive mail, the messenger, if he can determine that the occupants are absent for not more than 1 day, will leave the mail and a notice on Form 3955, *Special Delivery Notice*.

.43 NOTICE OF ATTEMPTED DELIVERY

When mail cannot be delivered as described in 166.42, the Form 3955, left under the door, between the door and doorjamb, or in the receptacle, will state where the special delivery mail is being held.

.44 RURAL AND STAR ROUTE CARRIERS

If delivery is attempted and cannot be made to a customer's residence or place of business, the special delivery matter is deposited in his box and a notice of nondelivery on Form 3955 is left at his residence or place of business.

.45 MILITARY POSTS AND CAMPS

No special delivery service is provided by military personnel at military posts and camps. Special delivery by messenger is made only to addresses such as officers' homes, headquarters, hospitals, and other places where it is definitely known that delivery can be made.

.46 FORWARDED SPECIAL DELIVERY MAIL

Special delivery mail that is forwarded is not entitled to special delivery at the second office, unless a forwarding order had been given by the addressee at the office of original address in advance of the arrival of the mail.

Part 167

SPECIAL HANDLING

167.1 DESCRIPTION

Special handling service is available for third- and fourth-class mail only, including that which is insured or sent COD. It provides preferential handling to the extent practicable in dispatch and transportation, but does not provide special delivery. Special handling parcels are delivered as parcel post is ordinarily delivered, on regular scheduled trips. Except for official mail sent under the provisions of 137.2, the special handling fee (or special-delivery fee) must be prepaid on all parcels that must be given special attention in handling, transportation, and delivery such as parcels containing baby poultry or honey bees. Baby poultry or queen honey bees sent priority mail or at the first class rate will also have the special handling fee paid, since such parcels contain third- or fourth-class mail in addition to the first-class or priority mail endorsement.

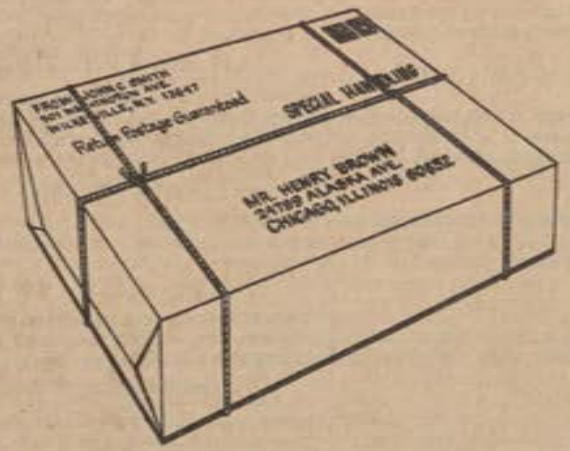
167.2 FEES

Weight	Fee
Not more than 2 pounds	$0.50
More than 2 pounds but not more than 10 pounds	.70
More than 10 pounds	1.00

The special handling fee is in addition to regular third- or fourth-class postage and may be prepaid by ordinary postage stamps or by meter stamps. The special handling fee on official mail is collected from Federal Government agencies and departments under the reimbursement procedures in 137.21.

167.3 MARKING OF PARCELS

Mailers should mark the words *Special Handling* above the name of the addressee and below the stamps as illustrated:



167.4 FORWARDING

Parcels undeliverable as originally addressed and forwarded to the addressee at a new address are given special handling without requiring an additional special handling fee. Except on official mail sent under the provisions of part 137, additional postage at the regular third- or fourth-class rate is collected on delivery. Forwarding postage on official mail is collected under the reimbursement procedures in 137.11 and 137.21.

Part 168

CERTIFIED MAIL

168.1 DESCRIPTION

Certified mail service provides a receipt to the sender and a record of delivery at the office of address. No record is kept at the office at which mailed. It will be dispatched and handled in transit as ordinary mail. No insurance coverage is provided. Return receipts and restricted delivery services may be obtained as set forth in part 165 and by the payment of additional fees as provided in 165.22 and 165.32. For circumstances under which

restricted delivery may be accomplished by delivery other than to the addressee, see 165.34. Certified mail will be endorsed in the following manner:

168.2 CLASS OF MAIL TO WHICH APPLICABLE

Any mailable matter of no intrinsic value on which postage at the first-class rate has been paid will be accepted as certified mail. This does not exclude articles of a nonnegotiable character and other similar matter which would involve a cost of duplication if lost or destroyed. The mail may be sent by air on payment of the required postage. Special delivery services are available on payment of the prescribed fees. Special delivery services may be provided without prepayment of postage and fees on official mail sent by Federal Government agencies and departments under the provisions of 137.2.

168.3 FEES

.31 FEE IN ADDITION TO POSTAGE	60 cents
.32 RESTRICTED DELIVERY	60 cents
.33 RETURN RECEIPTS	
Requested at time of mailing:	
Showing to whom and date delivered	25 cents
Showing to whom, date, and address where delivered	45 cents
Requested after mailing:	
Showing to whom and date delivered	45 cents

168.4 MAILING

.41 PAYMENT OF FEES AND POSTAGE

The fee and postage may be paid by ordinary postage stamps, meter stamps, or by permit imprints. The fee and postage on official mail of Federal Government agencies and departments are collected under the reimbursement procedures in 137.21.

.42 POINTS TO WHICH MAILABLE

Certified mail may be addressed for delivery only—

a. In the United States, its territories and possessions.
b. In the Canal Zone.
c. Through Army, Air Force (APO) and Navy (FPO) post offices.
d. Through the United Nations, N.Y. post office.

.43 WHERE TO MAIL

Customers may mail certified mail at the post office, branch, or station or give it to a rural carrier. It may also be deposited in mail drops in post offices, street letterboxes, nonpersonnel rural stations and branches, or any other receptacles for first-class mail, provided the specific directions in 168.44 are followed.

.44 HOW TO MAIL

Obtain blank certified mail coupons, Forms 3800, *Receipt for Certified Mail* (no charge) at the post office or from rural mail carriers. Also obtain blank return receipt forms if needed. Observe the following procedure:

a. Enter on the receipt portion of the certified mail coupon the name and complete address of the person or firm to whom the mail is addressed.
b. If return receipt is wanted, check block on the mailing receipt to show the fee and endorse the article on the address side near the certified mail endorsement *Return Receipt Requested* or *Return Receipt Requested Showing Address Where Delivered*. The mailer must enter the certified mail number on the return receipt card, address it to himself, and attach

.62 RETURNS

Check carrier and messenger returns in the manner described in 161.763c. Carrier will turn in all undelivered articles, delivery receipts, and return receipts for delivered articles.

.63 CLEARANCE

Carrier will prepare Form 3868, *Carrier's Clearance Receipt*, to show the combined total of returned certified letters and delivery receipts. The clearing clerk will sign this receipt and return to the carrier or messenger as his personal record.

.64 DELIVERY TO MILITARY INSTALLATIONS

Certified mail addressed for delivery at military installations within the continental United States must be delivered to the military installations in the same manner as numbered insured mail.

.65 FILING DELIVERY RECEIPTS

File individual delivery receipts, Form 3849, by the last two digits of the certified mail number in the consolidated delivery receipt file unless quantity accumulated over the filing period is less than 200 in which case use last digit only for breaking file. File firm delivery receipts, Form 3883, by the name of the addressee or chronologically by date.

.66 UNDELIVERABLE

Handle certified mail that is undeliverable or is to be forwarded in accordance with 159.27.

168.7 VERIFIED MAILING RECEIPTS

.71 INDIVIDUAL MAILINGS

Verify as follows:

a. Compare name and address of addressee on the article and on Form 3800.
b. If sender has checked blocks on Form 3800 for return receipt or restricted delivery service, make sure the article bears the proper endorsement.
c. Examine the return receipt card to determine whether appropriate blocks in instructions to delivering employee have been checked, and that the card is securely attached. Make sure address is properly completed by the sender.
d. Make certain that proper postal charges have been paid by stamps affixed; endorse mail if special delivery.
e. Postmark receipt portion and give to mailer. Initial, by the entry on the receipt in ink, time article was mailed if requested to do so by sender.
f. Deposit article in mail. Do not return to the mailer.

.72 QUANTITY MAILINGS

If the certified mail numbers are listed on firm mailing bills in consecutive order and the mail is similarly arranged, verify quantity mailings as follows:

a. Count the pieces of mail and listings on the bill. These should agree.
b. Compare certified mail numbers on first and last articles with the first and last numbers listed on the bill. These should agree.
c. Make a spot check to determine that mailings are properly prepared, and that postal charges have been fully prepaid.
d. Postmark receipt and give to mailer. Enter time articles were mailed if requested to do so by the sender, placing your initials by the entry. Use ink to enter time and initials in the space for the name of accepting employee.
e. Deposit articles in mail. Do not return to mailer.

Part 169
POST OFFICE LOCKBOX AND CALLER SERVICE

169.1 PURPOSE AND DEFINITION OF SERVICE

.11 GENERAL PURPOSE

Post Office Lockbox and Caller Service are premium services provided for the convenience of the public. These two services, provided in addition to available carrier or general delivery, afford customers privacy and permit them to obtain their mail at their convenience during the hours the lobby is open. Both services make use of the traditional post office box number as the address.

.12 DESCRIPTION OF SERVICE

.121 *Lockbox Service*

a. Lockbox service is provided only through the use of post office lockboxes. The term drawer is hereby abolished and all boxes previously referred to by that term are to be considered the same as lockboxes for all purposes, including rental rates. The terms lockbox and box are to be considered the same for purposes of these regulations and the term boxholder is to be applied to those who use lockboxes.
b. Lockboxes are located only in Postal facilities. Customers receive their mail in these boxes and may open the boxes by means of a key or combination. Numbers are assigned to the boxes and the customers must use their assigned post office box number in their addresses immediately above the city, state and ZIP Code.
c. Five sizes of lockboxes are available for rent and customers are assigned a lockbox of a certain size in accordance with their needs as determined by the postmaster.
d. Boxes without doors for customer access, formerly identified as *Call Boxes*, shall be used only in conjunction with general delivery service, and no rent shall be charged for their use.
e. Lockbox service does not include *alternate means of delivery* established to replace, simplify, or extend carrier delivery service. Examples are Vertical Improved Mail (VIM) units, neighborhood cluster box units, apartment house units, rural non-personnel units, etc. These *alternate means of delivery* shall not be administered or charged for under provisions of this part.

.122 *Caller Service*

a. Caller Service is provided through the use of sacks, pouches, trays, bundles, and other devices. Normally, mail is handed to the customer or his agent at a call window or from a loading dock. Caller service users are termed Callers throughout these regulations.
b. Caller service will be provided to customers under the following conditions:
   (1) When boxholders regularly receive more mail than their lockboxes will hold and boxes of adequate size are not available. To determine when this condition exists, the following guidelines apply:
      (a) For this purpose, *regularly*, is interpreted to be when the mail exceeds the capacity of the box for three out of five days.
      (b) Types of mail which are to be considered in making this determination are: letters, flats, second-class publications, SPR's and any items which could be placed in a box in the absence of other mail. Excluded are large boxes, phonograph records, thick

catalogs, or any similar item that has greater dimensions than the lockbox.

(2) To customers who wish to rent more than five lockboxes in any one facility. Five lockboxes may be rented to one customer, but additional separation may be provided only through the use of caller service. Customers who currently rent more than five lockboxes may retain those boxes providing that the appropriate caller fees are paid for all separations in excess of five (See 169.323b.)

c. Caller service may be provided to customers under the following conditions:
   (1) To a new customer who will receive (or can be expected to receive) too much mail to be accommodated in the largest box available in the facility.
   (2) To a customer who, at his option, desires a lockbox but none is available—with the provision that such service does not adversely affect normal postal operations.
   (3) To any customer who desires caller service in lieu of lockbox service even though boxes of adequate size may be available and the provision of such service does not adversely affect normal postal operations.
d. No caller service shall be provided from post offices with 35 or fewer revenue units.
e. A post office box number is assigned to the caller for each separation utilized and the caller must use his assigned number in the address immediately above the city, state and ZIP Code.
f. A customer may obtain caller service for the purpose of receiving the mail of a client. A caller number issued to such a customer shall be considered to be held by the customer and not the client. All restrictions or regulations provided in 154.212 shall be applicable to the provision of caller service under this section.
g. No physical lockbox shall be used for purposes of obtaining a number for a caller.
h. If a caller is already using a number assigned to a lockbox, the caller may be issued a new caller number to replace it. However, this may be done only with the consent of the caller. (See 169.323 for rate to be charged when a caller holds a number assigned to a lockbox.)
i. Where possible, a post office lockbox presently used by a caller for purposes of obtaining a caller number may be renumbered, or an ALPHA prefix or suffix added to the number, and rerented to another party.
j. Caller service may be restricted by postmasters with approval of the district manager if local conditions justify such restrictions.

.13 GENERAL CALLER SERVICE INFORMATION

.131 *Caller Service Terms*

Services which may have been locally termed as Phantom Box Service, Holdout Service, Firm Direct Service, Firm Holdout Service, Sack Service and miscellaneous other services of similar nature which involved the customer use of a post office box number as an address and which required the customer pick-up of mail from a postal facility on a regular basis are replaced with caller service.

.132 *Carrier Holdout Service and Other Exceptions*

a. Caller service does not include firm holdout service provided to customers under provisions of 351.
b. Caller service does not include general delivery service.

.133 *Reservation of Caller Numbers*

a. Callers of record may reserve caller numbers for future use. Postmasters shall determine which numbers may be reserved and may restrict this service in accordance with local conditions. The fee for this special service is detailed in 169.31

b. If a caller has reserved a number and subsequently receives mail separated to that number or otherwise notifies the post office that he intends to begin receiving mail addressed and separated to that number, then the appropriate semi-annual rate for caller service will be charged and no return of the reservation fee or any part of the reservation fee will be made. If the customer continues to receive mail addressed for separation to the number he will be charged the appropriate caller fee and for the next fiscal year no reservation fee will be charged. (Note exceptions in 169.322b.)

.14 HOW TO RENT A LOCKBOX OR OBTAIN CALLER SERVICE

.141 *Application for Post Office Box, Form 1093*

Form 1093, obtainable from any postmaster, must be filled out completely and submitted to the postmaster at the post office where box or caller service is desired. The application will be approved or denied by the postmaster. Furnishing false information on the application is sufficient reason for denial (see 169.8).

.142 *Known Applicant*

A known applicant shall be issued a box or provided caller service upon submission of Form 1093 and payment of the proper rent or fee.

.143 *Unknown Applicant*

a. Applicant must present his driver's license, military ID, or other valid identification to postmaster upon submission of the application, Form 1093.
b. Postmasters will verify that the applicant resides or conducts business at the address shown. Verification procedures will be initiated immediately upon receipt of the application. Verification for local customers should be completed within three working days.
c. A box will be assigned or caller service provided immediately upon approval of the application and receipt of box rent or caller fee.

.144 *Minors*

Boxes may be rented or caller service extended to minors unless parents or guardians object in writing.

.15 CONDITIONS OF USE

.151 *Individuals*

An individual boxholder or caller may receive through his box or caller service mail addressed to himself, his family, relatives, or other persons residing in his household, whether permanently or temporarily, if the mail is properly addressed to the box number.

.152 *Firms, Corporations, Associations, or Institutions*

A firm, corporation, association, or public or private institution may receive through its box or caller service mail addressed to its name, any of its officials, employees, inmates, students, teachers, or other individuals associated with the organization if the mail is properly addressed to the box number. (See also 169.122f.)

c. Continue to distribute the mail to the box for up to 10 days. If at the end of that time the customer has not paid the rent or left other instructions, remove the mail from the box and treat that mail and any subsequent mail addressed to the customer at that box as undeliverable mail, unless it is possible to deliver it by carrier or general delivery.
d. At the end of 10 days, close the box if the customer has not paid his rent or submitted other instructions.
e. If the customer pays his rent, unplug the lock or notify him of his new combination.

.542 Callers

a. If a caller fails to pay his fee by the due date, does not submit a change of address order, and does not attempt to obtain his mail, retain his mail for a period not exceeding 10 days, then treat his mail as undeliverable mail unless it may be readily delivered by carrier.
b. If a caller fails to pay his fee by the due date, does not submit a change of address order, and attempts to obtain his mail within 10 days, explain to him or his agent that at the end of the tenth day after the due date, if payments or a change of address order is not received, his mail will be delivered to his street address. Explain also that he will lose the use of his post office or caller box number(s) and may not obtain his mail at the postal facility. Continue to give him his mail until the end of the ten-day period, but do not provide him in excess of one separation (in case multiple separations had been provided) during that period.

.55 WHEN A BOX IS SURRENDERED

.551 Rerental of a Surrendered Box

If a customer surrenders a box before the end of the payment period, the box may be rented to another customer after 15 days. If the box has been closed by the Judicial Officer, the box may be rented to another customer after 20 days. (See 169.8.)

.552 Surrender of a Box

A box shall be considered to have been surrendered if:
a. The boxholder submits a permanent change of address order.
b. The boxholder refuses or fails to pay appropriate rent or fees by the due date.
c. The boxholder submits in writing an order to discontinue service.

.553 Nonsurrender of a Box

A box shall not be considered to have been surrendered if:
a. The boxholder dies or disappears before the end of the period for which he has rented the box.
b. The boxholder submits a temporary change of address order.
c. There is a change of address order issued for mail going to the box by any person other than the boxholder.

.554 Refund of Box Rent and Caller Fees

a. Handle all refunds under this section in accordance with 147.26.
b. When a lockbox is closed or surrendered or caller service is terminated, no portion of the rent or fees shall be refunded for the remainder of the semiannual payment period in which the action occurs, unless such closure or termination is the result of discontinuance or relocation of a facility (see 169.554c). A customer, who has paid for a semiannual rental period subsequent to that in which the closure or termination occurs, may apply for a refund of the entire box rent or caller fee applicable to the subsequent period.
c. Former lockbox or caller service customers of discontinued or relocated postal facilities may obtain a refund of unused box rent or caller service fees whenever additional travel of .4 kilometers (.25 miles) or more (from the address listed on the applicable Form 1093) is required to obtain equivalent service. For refunds under this section, one-sixth of a semiannual rental fee may be refunded for each month remaining in the rental period. If the effective date of the facility discontinuance falls on or before the 15th of the month, the refund shall be computed from the first day of that month. If the effective date is after the 15th day of the month, the refund shall be computed from the first day of the following month.

169.6 OPERATIONS

.61 PLACING IN BOXES

Place mail addressed to post office boxes in proper boxes immediately after distribution. If the flow of the mail allows it and no lengthy delays will occur, attempt to place larger items such as newspapers, catalogs, and magazines in boxes prior to placing smaller items such as letter mail and flats into the boxes.

.62 WITHDRAWAL FROM BOXES

Mail may be delivered to authorized persons who have forgotten their keys or cannot open their boxes. However, mail should not be handed out to persons properly supplied with keys who can open their boxes but who make it a practice of requesting that their mail be given to them.

.63 DELIVERY BY CARRIER

Do not remove mail from boxes of address for delivery by carrier except for the case of box service discontinued due to failure to pay rent.

.64 MULTI-PICKUP CALLERS

Callers who desire to call at a postal facility for their mail more than once in any 24-hour period as a regular practice shall make provisions with the postmaster for the establishment of a proper and reasonable schedule of pickup. Postmasters shall determine the times and places most satisfactory to the post office.

.65 STANDARDS

.651 Box Service

If the postmaster determines that safety and security provisions allow it and if he determines that there is sufficient public demand, then he may keep the box lobby open to the public 24 hours per day.

Subchapter 170 NONMAIL SERVICES

Part 171

MONEY ORDERS

171.1 ISSUANCE OF DOMESTIC MONEY ORDERS

.11 WHERE SOLD

Domestic money orders may be purchased at all post offices, branches, and stations in the United States and its possessions. Money order facilities are also provided for members of the Armed Forces of the United States.

.12 AMOUNTS, FEES, PAYMENTS

.121 *Money Order Amounts*

The maximum amount for a single money order is $300. There is no limitation on the number of orders that may be purchased at one time, except when the Postal Service may impose temporary restrictions.

.122 *Money Order Fees*

a. The fee for a postal money order issued to authorized civilian and military personnel and/or their dependents by an Armed Forces Postal Clerk on board any ship or at any Military Post Office (APO or NPO) located outside the 50 States, Puerto Rico, and Guam is 15¢, regardless of the amount of the money order. Postal money orders issued to others shall be charged at the fees indicated below.

b. Fees for domestic money orders issued at other post offices including those with branches or stations on military installations are as follows:

Amount of money order	Amount of fee
	Domestic
$0.01 to $10	$0.50
$10.01 to $50	.70
$50.01 to $300	.90

.123 *Paying for Money Orders*

Money orders must be paid for in United States money. Coins are legal tender in any amounts.

.13 ISSUE PROCEDURES FOR MONEY ORDERS

.131 *General*

All orders will be issued on the money order imprinter. Manual issuance is prohibited.

.132 *Imprinter Preparation*

At the start of a duty tour, the issuing clerk receipts for blank money order sets and a numbered validation plate unless already in his possession, by signing control registers maintained on item 0–127a. At the work station, the clerk verifies that the office number plate is affixed and uses the non-metallic

stylus to set the appropriate date into the dating device on the imprinter. (The setting from left to right is year, month, and day, such as 740402 for April 2, 1974.) The validation plate is then placed in the designated position on the imprinter as described in the operating instructions.

.133 *Imprinting the Order*

Before imprinting each money order, clerks will verify that the proper date is set, the validation plate is in place and the print handle is positioned to the extreme left. Set the five amount keys to the requested amount (never more than $300) and verify the setting as registered in the small windows above the keys. Next, select and insert the limitation plate for the same or next higher amount, and insert the blank money order form set so that it lies flat on the machine within the form guides. Finally, imprint the order by moving the print handle in one continuous motion to the extreme right position and returning it in a continuous motion to the starting position.

.134 *Completing the Transaction*

Remove the imprinted form set, snap-out the carbons and dispose of the carbons and stub as trash. Verify that all information (including validation plate and limitation plate imprint) is clearly imprinted on the money order, and that the date, office number, and amount are clear and completely legible on all parts. (See 171.162 for spoiled orders.) Both customer and clerk should verify the amount on the order. Next, collect payment for the face amount and the fee and then hand the money order and customer's receipt to the customer. Finally, place the voucher in the proper receptacle for end of day reporting, replace the limitation plate in its storage slot and move the amount keys back to their asterisk position. If two or more clerks share a single imprinter at the same time, each must remove his validation plate from the imprinter after his own sale.

.135 *Inoperable Imprinter Procedures*

Manual issuance of money orders is not permitted. Inoperable imprinters must be replaced or restored to service as quickly as possible. While service is disrupted, customers will be advised of the anticipated time that service will be restored and of the location of nearby facilities where service is available. Also, they will be allowed to apply on Form 6001, *Application for Domestic Money Order* for immediate issuance of an order upon restoration of service. In such instances, procedures as prescribed for issuance to rural customers (171.15) will apply, except that mailing of orders to payee, and orders and/or customer receipt to customers will be at Postal Service expense.

.14 COMPLETION OF MONEY ORDER BY PURCHASER

Clerks should remind the purchaser of the necessity to complete the information on both the order and the customer's receipt. The Postal Service is not liable for money orders lost before completion by the purchaser. Purchasers must fill in the following information on the money order and the customer's receipt:

a. *Name and address of payee and name and address of purchaser.* The customer should do this promptly to protect his rights in the event the order is lost. Also, he should complete and safeguard the customer receipt since it must be presented if inquiries are made later. Money orders may be made payable to:
   (1) The purchaser, if desired.
   (2) Only one person or firm. Show complete name to avoid redemption difficulties.
   (3) Payee by his official title. *Examples:* Director of Internal Revenue, Baltimore; Cashier, First National Bank, Richmond, VA.

Mail Matter, should be initiated and processed immediately if loss is believed to have occurred in the mail.

(3) Application for a duplicate of a mutilated order or an order void by too many endorsements, on Form 6401, may be filed at any time if the order is attached.

(4) If the customer's receipt is presented, the post office shall endorse it "Form 6401 (date)" and return it to the applicant. *The postmaster shall not keep any record of the filing of the form.* Reply will be made directly to the inquirer.

b. *Issuance of Duplicate Order*

(1) The Money Order Division will issue a duplicate money order in accordance with the wishes of the purchaser applicant without the consent of the payee or endorsee, provided the records indicate that payment has not been made. However, the purchaser has no claim on COD orders.

(2) Send a mutilated or void order to the Money Order Division with a properly completed Form 6401.

(3) The Money Order Division will forward the duplicate to the payee named on Form 6401. The customer's receipt will be sent to the person submitting Form 6401, when he is not the payee of the duplicate.

c. *Orders Recovered After Duplicate Issued*

When a duplicate order has been issued, write *Canceled-Duplicate Issued* on the original order and send it to the Money Order Division. If the postal employee does not know whether a duplicate was actually issued, send the recovered order with Form 6401.

d. *Payment of Duplicate Orders*

A duplicate money order is payable only to the payee named thereon or to his endorsee.

171.2 INTERNATIONAL MONEY ORDERS

.21 ISSUANCE

.211 *Where Sold, Amounts and Fees*

An authorization to issue an international money order may be purchased at almost all post offices with 950 or more revenue units. Some post offices with fewer than 950 revenue units have been designated to provide this service. Post offices not designated but having sufficient need for the service will make application to the regional director, finance department. International money orders will be issued to addressees in those countries that have agreed with the United States to conduct such business. The maximum amount for an international order is $300. Except that orders should not exceed £50 (approx. $90) when payable in Great Britain, $250 when payable in Syria, and $100 when payable in Morocco. The fees are as follows:

Amount of International Order:	*Fee*
$0.01 to $10	$0.65
$10.01 to $50	.90
$50.01 to $300	1.15

.212 *Application*

a. For most countries and localities (see 171.218 and 171.219), the authorization to issue an international money order form is used. Application must be made on Form 6701, *Application for International Money Order*. For Mexico an optional application Form 6701-A, *Application For a Money Order Payable in Mexico*, is provided. In most cases, the amount is written in United States dollars and converted into foreign currency in the country where payable. For this reason, only approximations may be given for amounts in foreign currency, except Canadian.

b. Purchasers must complete Form 6083, *Supplemental International Money Order Advice*, written in the foreign language *if possible*, when they send money orders payable in Greece, Lebanon, Syria, Yugoslavia, and Japan.

c. Purchasers will be given a receipt. The postmaster will send the authorization form to the Money Order Division where the international order is issued.

d. Purchasers must state the following details in their application regarding the payee: full name, exact address, name of city, town, or village; name of the canton, department, or district as the case may be. If the payee is a woman, state whether single, married, or widowed. The purpose of the payment should also be stated.

.213 *Domestic International Money Orders*

For certain countries the domestic money order form is used. There is no application. See 171.217.

.214 *Issuing Procedures*

a. *When Domestic Form Is Used.* Handle in the same manner as for domestic orders. (See 171.13 and .14.) For Canada, the amount on the order must be expressed in both U.S. and Canadian money. Consult the current conversion table. Put the amount received in U.S. money and select the limitation plate in the usual manner. *Write* the Canadian equivalent on the *For* line in the *Purchased By* block and put *Canadian* before it.

b. *When Authorization to Issue an International Money Order is Used*

(1) *Reviewing Application.*—Verify that Forms 6701 or 6701A are *properly and legibly completed* in accordance with the instructions on the back. Incomplete Form 6701 will delay transmission to country. *Make sure that the country of payment is one of those listed in 171.218 and 171.219.* Do not accept applications for countries not included on those lists. Every effort should be made to have customers specify the purpose of payment as an aid to the recipient in identifying the sender. However, the form may still be accepted if they refuse to do so. Verify also that the customer has properly completed and submitted Form 6083 when required.

(2) *Imprinter Preparation.*—Prepare the imprinter for issuance of the form set, *authorization to issue an international money order*, exactly the same as described in 171.132 for domestic form set. Make a practice of verifying that the date is correctly set.

(3) *Imprinting the Form Set.*—Imprint the authorization form set exactly the same as the domestic form set as described in 171.133. Manual issuance is prohibited. The imprinted amount on form sets will always be in U.S. money. If a customer insists on the foreign equivalent for an order payable in one of the following countries, obtain the conversion rate from a local bank or firm which deals in foreign currency: Belgium, Denmark, France, Great Britain, and Northern Ireland, Guyana, Ireland, Luxemburg, Netherlands, New Zealand, Norway, Republic of South Africa, Surinam, Sweden, Switzerland, and Tunisia. If no such source is available locally, call the International Exchange Section, Money Order Division, St. Louis PDC, on 314-622-4933. Advise the customer in all cases that the quoted foreign equivalent is only approximate and will not necessarily be the amount paid in the foreign country.

(4) *Completing the Transaction.*—

(a) Remove the imprinted form set and snap-out the carbons.

(b) Dispose of the carbon and stub as trash.

(c) *Verify that all information (including validation plate and limitation plate imprint) is clearly imprinted on the authorization (bottom) part, and that the date, office number, and amount are correct, clear and completely legible on all parts.*
(d) Both customer and clerk should verify the imprinted amount.
(e) Collect payment for the face amount and the fee. Then hand the customer *only* the customer's receipt (top) part of the form set.
(f) Remind the customer to complete the *Paid To* and *Purchased By* portions of the receipt. The receipt must be presented whenever an inquiry is made.
(g) Place the voucher (middle) part in the proper receptacle for end of day reporting. Maintain voucher copies of authorization form sets as a separate group in numerical sequence (first 10 digits) from voucher copies of domestic money orders.
(h) Replace the limitation plate in the storage slot.
(i) Move the amount keys back to their asterisk position.
(j) If two or more clerks share a single imprinter at the same time, each must remove his validation plate from the imprinter after his own sale.
(k) When a Form 6083 is required, complete it by placing the date stamp where indicated and entering *Authorization No.* (first 10 digits) above the words *Money Order No.* Do not write on the line next to *Money Order No.*
(l) Complete the bottom of Form 6701 or 6701–A under the words *For Official Use Only*. Staple the authorization (bottom) part of the form set where indicated on Form 6701 or 6701–A. Also, when applicable, attach Form 6083 with a paper clip where indicated. *Do not staple.* Mail Form 6701 or 6701–A and attached documents by regular mail daily to the Money Order Division at the address shown on the back of the form.
(m) The Money Order Division will include the international money order it issues with others for the same country and no stamp need be furnished for its transmission overseas by airmail.

c. *Spoiled Form Sets*

(1) *Issuance of New Form Set.*—Issue a new form set without additional fee if from set is spoiled on day of issue due to defective form set, clerk error, mutilation, erroneous date, or faulty imprint during issuance. Once Form 6701 or 6701–A and attached documents have been sent to the Money Order Division, it is no longer possible to treat a form set as *Spoiled*. Any request for a change in the form set will be handled through the inquiry procedure described in 171.42b. Whoever was at fault on the original form set (clerk or customer) will pay the fee if a new form set is required.
(2) *Treatment of Spoiled Form Set.*—
(a) Customer's receipt and voucher copy—destroy immediately.
(b) Authorization copy—stamp or mark *Spoiled* below the data imprint area. *Do not stamp or mark between the lines* (OCR read band area). When the office number and date do not appear or are illigible, write them below the OCR read band area.
(c) Retain the spoiled authorizations as a separate group behind the voucher copies. Do not attach anything to the spoiled authorizations.

.215 Refunds

The amounts of authorization forms resulting in issuance of international money orders may not be repaid until authorized by the foreign postal administration. Verify Form 6684, *Inquiry Concerning International Money Order Issued in the United States*, with the particulars on the customer's receipt copy of the authorization. Send to the Money Order Division when purchaser requests repayment on U.S. issued orders.

.216 Lost Reissued Orders

Report the facts concerning lost reissued orders (an order certified to the United States by a foreign country and reissued in the United States) to the Money Order Division.

.217 Countries Where Service Is Available on Domestic Basis[1]

Country	*Address*
Antigua	Administrator St. Johns, Antigua
Bahamas	Postmaster Nassau, Bahamas
Barbados	Postmaster General Bridgetown, Barbados
Belize	Postmaster General Belize City, Belize
Bermuda	Colonial Postmaster Hamilton, Bermuda
British Virgin Islands	Administrator Tortola, British Virgin Islands
Canada (see 171.214a)	Deputy Postmaster General Financial Branch Money Order Division Ottawa ON Canada K1A 0B1
Canal Zone	Director of Posts Balboa Heights, Canal Zone
Dominica	Colonial Postmaster Dominica, West Indies
Grenada	Colonial Postmaster Grenada, West Indies
Jamaica	Postmaster General Kingston, Jamaica
Montserrat	Administrator Montserrat, West Indies
Saint Kitts-Nevis-Anguilla	Administrator St. Kitts-Nevis-Anguilla, West Indies
Saint Lucia	Postmaster General Saint Lucia, West Indies
Saint Vincent	Colonial Postmaster Saint Vincent, West Indies
Trinidad and Tobago	Postmaster General Port of Spain, Trinidad, West Indies

[1] See sections 171.213 and 171.42c.

171.3 CASHING MONEY ORDERS

.31 RESTRICTIONS ON PAYMENT

No money order shall be paid after 20 years from the last day of the month of original issue. The records of the Postal Service shall serve as the basis for adjudicating claims for payment of money orders.

.32 WHERE TO CASH

.321 Card money orders and the new paper imprinted orders may be cashed at any post office or bank.

.322 Rural carriers may cash money orders for rural customers, including customers of nonpersonnel rural stations and branches, subject to the availability of funds. Money orders must be endorsed in the carrier's presence. No fee or compensation is required for this service.

.323 Money orders issued at military post offices are payable only at military post offices and United States military banking facilities, or at post offices or banks located in the United States, its possessions or Territories, and countries with which the United States transacts domestic-international money order business. If the purchaser or payee of a money order issued at a military post office transfers ownership by endorsement to another, the endorsee must cash the money order at a military post office, a United States military banking facility, or a post office located in the United States, its possessions, or Territories.

.33 SIGNATURE REQUIREMENTS

.331 *Acceptance of Signature*

The paying post office may accept any signature of the payee, purchaser, or endorsee that is not different from the name given on the order.

.332 *Signature by Mark*

Customers who cannot write must use a mark. Marks (usually X) must be witnessed by someone who is not a post office employee.

.333 *Signature by Firms, Organizations, and Their Representatives*

All money orders payable to a business firm, an organization, society, institution, or Government agency must be signed in the name of the organization by a representative authorized to do so. It may be necessary for such authority to be presented and filed. The representative must also sign with his own name and organizational title. If drawn in favor of an official by name and presented by a successor, the latter must sign as follows: *William Jones, treasurer, successor to George Thompson.*

.334 *Use of Titles*

Use of such titles as *Dr., Rev., Prof., Madam, Mrs., M.D., or D.D.S.*, are not required in signing a money order for payment, whether or not such title is used on the face of the money order.

.335 *Stamped Signatures*

A stamped signature is acceptable as an endorsement on a money order when drawn in favor of a firm, corporation, association, society, or individual, provided the money order is presented to a bank for payment. A post office will accept stamped signatures, provided an agreement is filed in advance regarding the responsibility for the correctness of such payments.

.336 *More Than One Payee*

Money orders completed by the purchasers to show more than one firm or person as payee shall be paid as follows:

a. If the conjunction "or" is used to connect the payees, either payee may cash the document.
b. If no conjunction is used, or if the conjunction "and" is used to connect the payees, then all the listed payees must endorse the document.

.34 PAYMENT OF ORDERS TO OTHER THAN PAYEE

.341 *Transfer of Money Order*

a. *By Payee.* Only the payee of a money order may endorse it to any other person or firm.
b. *On Power of Attorney.* A person with power of attorney may cash money orders in behalf of the payee who gave him that authority. The power of attorney must be filed at the office of payment.
c. *On Separate Written Order.* A payee may file a separate written order with the post office authorizing payment to another person. The person must be designated by name as the one to receive payment.

.342 *Upon Assignment*

When a payee, such as an individual or firm, makes an assignment, and intends that money orders be paid to the assigned person, he must file a power of attorney or a written order in the post office. The person designated to receive payment must receipt the money order and indicate below his signature the capacity in which he acts.

.343 *On Death of Payee*

A money order belonging to a deceased owner may be paid to the executor or administrator of the estate appointed by the court. A certified copy of the appointment as executor or administrator must be filed with the local postmaster. Payments will be made in accordance with the laws of the State of which the deceased was a resident.

.344 *To a Concern no Longer in Business*

Money orders will be paid to the legal representative of a firm, association, or company that has ceased to exist.

.345 *To a Committee or a Guardian*

Money orders will not be issued or paid to a ward when declared incompetent by a court. They will be paid only to the committee, guardian, or other duly authorized person.

.346 *To Minors*

A money order payable to a minor may be paid to the father or mother as natural guardian unless prohibited by court order.

.35 WHEN ORDERS WILL NOT BE PAID

.351 *When There is a Second Endorsement*

A money order with more than one endorsement is invalid. For proper procedure to obtain a duplicate, see 171.163a.

.352 *When There is a Question on a COD Parcel*

No payment will be made when a money order has been issued in return for a COD parcel, and is presented by the addressee (purchaser) and the money order has not been endorsed by the payee (shipper) or the payee has not expressly authorized payment to the purchaser by written approval.

.36 EXAMINATION OF THE ORDER BY POSTAL EMPLOYEE

Assure that:

a. *It is not a form reported stolen.* If it is, try to delay the person; immediately notify local police, nearest postal inspector, or postal inspector in charge; and hold order for instructions.
b. *It is properly imprinted and drawn by the issuing office.* Orders are payable in the amount imprinted by the machine and for no more than the amount imprinted below the words *Not Valid If Over.*

b. Keep an office record of the data required to be kept of unregistered COD mail. Furnish carriers completed Forms 3821, in duplicate, marked *Registered*.
c. Instructions in 163.51, concerning number of attempts at delivery, and in 163.43, concerning notification to sender, apply to registered COD mail, except that Form 3880 (marked *Registered*) shall be used as a notice of arrival instead of Form 3849.

.85 REPORTS AND DISPOSITION OF CHARGES

.851 Offices With Revenue Units of 950 or More

Make reports and dispose of COD charges as follows:
a. Each employee who delivers registered COD mail must make a report daily to the office of finance or designated supervisory employee, by depositing a copy of Form 3821 in the same receptacle used for the forms covering unregistered COD mail, if practicable.
b. The registry section must complete Form 3822 in triplicate, the forms being endorsed *Registered*.
c. Transfer the funds collected to the main office unit or remit with other receipts directly to the bank. Forward the COD tags with Form 3822 to the superintendent of the main office window unit, following the procedures in 163.714.

.852 Other Offices

Handle the charges collected in the same manner as charges collected on unregistered COD mail.

[FR Doc.77-26682 Filed 9-15-77;8:45 am]

federal register

FRIDAY, SEPTEMBER 16, 1977
PART VIII

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.

California:	
CA77–5039; CA77–5040	Apr. 22, 1977.
CA77–5041; CA77–5042	May 6, 1977.
CA77–5043; CA77–5044	May 20, 1977.
Iowa:	
IA77–4211	Sept. 2, 1977.
Louisiana:	
LA77–4169	July 29, 1977.
Massachusetts:	
MA77–3066	Sept. 2, 1977.
Ohio:	
OH77–2073; OH77–2080	May 13, 1977.
Texas:	
TX77–4098	May 6, 1977.
TX77–4190; TX77–4191; TX77–4192; TX77–4196; TX77–4199; TX77–4201; TX77–4202; TX77–4205; TX77–4206; TX77–4207.	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.

Maryland:	
MD77–3041 (MD77–3109)	Mar. 18, 1977.
Massachusetts:	
MA75–2134 (MA77–3127)	Dec. 19, 1975.
MA76–2097 (MA77–3064)	Aug. 13, 1976.
MA76–2106 (MA77–3073)	Sept. 3, 1976.
Michigan:	
MI76–2140 (MI77–2125)	Nov. 18, 1976.
Pennsylvania:	
PA77–3028 (PA77–3128)	Apr. 15, 1977.
PA77–3049 (PA77–3129)	Apr. 22, 1977.
Virginia:	
MD77–3041 (MD77–3109)	Mar. 18, 1977.
Washington, D.C.:	
DC77–3040 (DC77–3108)	Do.

NOTICE: *Effective Immediately.*—Due to the cost of publication involved, the Department of Labor will no longer publish the monthly index to General Wage Determination Decisions and Modifications. All users of general wage determination decisions are cautioned to consult the lists of new decisions, modifications, supersedeas decisions, and cancellations published each week in the preamble to the published prevailing wage rates to determine if there have been any changes in the wage determination decisions applicable to their programs.

Signed at Washington, D.C., this 9th day of September 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION No. CA77-5039 - Mod. #5
(42 FR 20991 - April 22, 1977)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Monterey and Santa Cruz Counties	$12.60	$1.22	$1.26		
Electricians:					
Fresno, Kings, Madera and Tulare Counties					
Electricians	12.76	.80	3%+1.05		.05
Cable Splicers	14.04	.80	3%+1.05		.05
San Mateo County					
Electricians	13.64	1.25	3%+1.00		.03
Glaziers:					
Alameda, Contra Costa, Lake, Marin, Mendocino, (Southern half of County from North of Ft. Bragg), Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, (S.W. from east of Fairfield) and Sonoma Cos.	11.79	1.00	1.41		.02

DECISION NO. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Piledriving					
Group 1	$9.18	$1.50*	$2.25	.90	.29
Group 1(a)	9.55	1.50*	2.25	.90	.29
Group 1(b)	9.78	1.50*	2.25	.90	.29
Group 2	9.78	1.50*	2.25	.90	.29
Group 2(a)	10.60	1.50*	2.25	.90	.29
Group 3	10.92	1.50*	2.25	.90	.29
Group 3(a)	11.36	1.50*	2.25	.90	.29
Group 4	11.93	1.50*	2.25	.90	.29
Group 5	12.11	1.50*	2.25	.90	.29
Power Equipment Operators					
Group 1:					
Area 1	9.13	1.50*	2.25	.90	.29
Area 2	10.64	1.50*	2.25	.90	.29
Group 2:					
Area 1	9.50	1.50*	2.25	.90	.29
Area 2	11.01	1.50*	2.25	.90	.29
Group 3:					
Area 1	9.73	1.50*	2.25	.90	.29
Area 2	11.24	1.50*	2.25	.90	.29
Group 4:					
Area 1	10.32	1.50*	2.25	.90	.29
Area 2	11.83	1.50*	2.25	.90	.29
Group 5:					
Area 1	10.55	1.50*	2.25	.90	.29
Area 2	12.06	1.50*	2.25	.90	.29
Group 6:					
Area 1	10.71	1.50*	2.25	.90	.29
Area 2	12.22	1.50*	2.25	.90	.29
Group 7:					
Area 1	10.87	1.50*	2.25	.90	.29
Area 2	12.38	1.50*	2.25	.90	.29
Group 8:					
Area 1	11.31	1.50*	2.25	.90	.29
Area 2	12.82	1.50*	2.25	.90	.29
Group 9:					
Area 1	11.54	1.50*	2.25	.90	.29
Area 2	13.05	1.50*	2.25	.90	.29
Group 10:					
Area 1	11.76	1.50*	2.25	.90	.29
Area 2	13.27	1.50*	2.25	.90	.29

DECISION No. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alpine, Amador, Butte, Calaveras, El Dorado, Mariposa, Merced, (North of City of Livingston), Modoc, Nevada, Placer, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties	$10.886	.58	$1.50		
Ironworkers:					
Fence Erectors	10.66	1.24	2.22	$1.46	.06
Reinforcing	11.55	1.24	2.22	1.46	.06
Ornamental; Structrual	11.55	1.24	2.22	1.46	.06
Marble Setters	11.74	1.40	.93	1.03	
Plasterers:					
Monterey County	12.31	1.00	.35		.01
San Francisco and San Mateo Counties	12.33	1.00	2.25		.03
Plasterers' Tenders:					
Monterey County	10.40	1.25	1.70		
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	15.15	1.08	1.77		.14
San Mateo County	13.91	1.14	2.30		.25
Roofers:					
Monterey and Santa Cruz Cos. Roofers	10.40	1.40	1.15		
Sheet Metal Workers:					
Fresno, Kings, Madera and Tulare Counties	11.98	.73	1.22		.14
Sprinkler Fitters:					
Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	16.26	.65	1.45		.09

DECISION NO. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 10-A:					
Area 1	$11.88	$1.50*	$2.25	.90	.29
Area 2	13.39	1.50*	2.25	.90	.29
Group 11:					
Area 1	12.06	1.50*	2.25	.90	.29
Area 2	13.57	1.50*	2.25	.90	.29
Group 11-A:					
Area 1	13.22	1.50*	2.25	.90	.29
Area 2	14.73	1.50*	2.25	.90	.29
Group 11-B:					
Area 1	13.52	1.50*	2.25	.90	.29
Area 2	15.03	1.50*	2.25	.90	.29
Group 11-C:					
Area 1	13.84	1.50*	2.25	.90	.29
Area 2	15.35	1.50*	2.25	.90	.29

*Includes $.23 per hour to Pensioned Health and Welfare Fund.

Add:

Plumbers: Steamfitters: Del Norte and Humboldt Counties	$12.29	.86	$1.22		.05

Omit:

Plumbers: Del Norte and Humboldt Counties	11.33	.71	1.12		.05

DECISION NO. CA77-5039 (Cont'd)

POWER EQUIPMENT OPERATORS
(AREAS I and II)

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty Repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screed); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Locomotive (30 tons or under); Motorman; Rodman or Chainman; Ross Carrier (construction jobsite); Rotomist; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine, 4 ft. depth; Truck Crane Oiler; Tugger Hoist, single drum; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps or Pumpcrete Guns; Generators; Grouting Machine; Press-weld (air-operated); Pumps (over 2); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Factor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical (not to apply to waterliners, wagon drills or jackhammers); Highline Cableway Signalman; Locomotives (steam or over 30 ton); Lubrication and Service Engineer (mobile and grease rack); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crushers; Post Driver (M1500 and similar); Power Jumbo Operator (setting slip-forms, etc., in tunnels); Roller (except asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine (Perault CRC or similar type); Self-propelled Power Sweeper; Self-propelled Tape Machine; Slip Form Pumps (lifting device for concrete forms); Small rubber-tired tractors; Surface Heaters; Auger-type drilling equipment up to and including 39 ft. depth)

DECISION NO. CA77-5039 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 7: Concrete Conveyor or Concrete Pump, Truck or Equipment mounted (boom length to apply); Concrete conveyor; building site; Deck Engineers; Drilling and Boring Machinery, horizontal (not to apply to waterliners, wagon drills or jackhammers); Dual Drum Mixer; Fuller Kenyon Pump and similar types; Gantry Rider (or similar equipment); Hydro-Hammer or similar; Instrument Man; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pavement Breaker, truck mounted with Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount)(10 tons or less M.R.C.); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom); Soil Tester; Truck type Loader; Auger-type drilling equipment over 30 ft. depth

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-Place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Gradesetter, Grade Checker (mechanical or otherwise); Grooving and Grinding Machines (highways); Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Push Cat; Rubber Tired Earth-moving Equipment (up to and including 45 cu. yds. "struck" m.r.c.); Euclids, T-Pulls, DW-10, 10, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor; Trenching Machine over 4 ft. depth; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment); Vermeer T-600 B Rock Cutter

Group 9: Chicago Boom; Combination Mixer and Compressor (gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-Lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom)(D-6 or larger and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted; Combination Backhoe and Loader (up to and including 3/4 cu. yd. m.r.c.); Derrick (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-More Loader and Adams Elegrader; Elevating Grader Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type Drills); Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yards up to and including 4 yards); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.) (no tandem scraper); Pre-stress Wire Wrapping Machine; Reservoir-Debris Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.); Shuttle Car (reclaim station); Single Engine Scraper over 45 yards; Soil Stabilizer (P & H or equal); Sub-grader (Gurries or other automatic type); Tractor, Compressor Drill Combination; Track Laying type earth moving machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sloping attachment, Jefco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic) (up to and including 1 cu. yd. m.r.c.); Backhoe (cable) (up to and including 1 cu. yd. m.r.c.); Combination Backhoe and Loader over 3/4 cu. yd. m.r.c.); Continuous Flight Tie Back Auger (up to and including 1 cu. yd.)(Crane attached); Cranes (not over 25 tons, Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Power Shovels, Clamshells, Draglines, (up to and including 1 cu. yd. m.r.c); Power Blade (single engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Rubber-tired Scraper, self-loading (paddle wheel twin engine); CMI dual Lane Auto Grader SP30 or similar

Group 11: Automatic Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Canal Trimmer w/ditching attachments; Cranes (over 25 tons up to and including 125 tons); Continuous Flight Tie Back Auger over 1 cu. yd. (including crane); Drott Travelift 650-A-1 or similar (45 tons or over); Euclid Loader when controlled from the pullcat; Highline Cableway (over 5 tons); Loader (over 4 yards, up to and including 12 cu. yds.); Miller Formless M900 Slope Paver or similar; Power Blade (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. m.r.c.); rubber-tired earth moving machines (multiple propulsion power units and two or more scrapers)(up to and including 75 cu. yds. "struck" m.r.c.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired Earthmoving Machines (with tandem scrapers); Slip Form Paver (concrete or asphalt); Tandem Cats; Tower Cranes Mobile including rail mounted; Trencher (pulling attached shield); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yd. per hour); Whirley Crane (over 25 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 11-A: Band Wagons (in conjunction with Wheel Excavator); Cranes (over 125 tons); Loader (over 12 cu .yds.; up to and including 18 cu. yds.); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Rubber Tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" m.r.c.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11-B: Loader (over 18 cu. yds.)

Group 11-C: Operator of Helicopter (when used in erection work); Remote Controlled Earthmoving Equipment

DECISION No. CA77-5040 - Mod. #4
(42 FR 21012 - April 22, 1977)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons:					
Monterey and Santa Cruz Counties	$12.60	$1.22	$1.26		
Electricians:					
Fresno County					
Electricians (3-4 stories)					
Electricians	12.76	.80	3%+1.05		.05
Cable Splicers	14.04	.80	3%+1.05		.05
San Mateo County					
Electricians	13.64	1.25	3%+1.00		.03
Glaziers:					
Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano (SW from E of Fairfield), Sonoma Counties	11.79	1.00	1.41		.02
Alpine, Amador, Calaveras, El Dorado, Mariposa, Merced, (North of City of Livingston), Nevada, Placer, Sacramento, San Joaquin, Sutter, Tuolumne, Yolo and Yuba Counties	10.886	.58	1.50		
Ironworkers:					
Fence Erectors	10.66	1.24	2.22	1.46	.06
Reinforcing	11.55	1.24	2.22	1.46	.06
Ornamental; Structural	11.55	1.24	2.22	1.46	.06

DECISION NO. CA77-5040 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Monterey County	$12.31	$1.00	.35		.01
San Francisco and San Mateo Counties	12.33	1.00	2.25		.03
Plasterers' Tenders:					
Monterey County	10.40	1.25	1.70		
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	15.15	1.08	1.77		.14
San Mateo County	13.91	1.14	2.30		.25
Roofers:					
Monterey and Santa Cruz Cos. Roofers	10.40	1.40	1.15		
Sprinkler Fitters:					
Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	16.26	.65	1.45		.09
Power Equipment Operators:					
Group 1:					
Area 1	9.13	1.50*	2.25	.90	.29
Area 2	10.64	1.50*	2.25	.90	.29
Group 2:					
Area 1	9.50	1.50*	2.25	.90	.29
Area 2	11.01	1.50*	2.25	.90	.29
Group 3:					
Area 1	9.73	1.50*	2.25	.90	.29
Area 2	11.24	1.50*	2.25	.90	.29
Group 4:					
Area 1	10.32	1.50*	2.25	.90	.29
Area 2	11.83	1.50*	2.25	.90	.29
Group 5:					
Area 1	10.55	1.50*	2.25	.90	.29
Area 2	12.06	1.50*	2.25	.90	.29

POWER EQUIPMENT OPERATORS
(AREAS I and II)

Group 1: Assistants to Engineers (Brakeman; Fireman; Heavy Duty Repairman Helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty Repair shop parts room)

Group 2: Compressor Operator; Concrete Mixer (up to and including 1 yard); Conveyor Belt Operator (tunnel); Fireman Hot Plant; Hydraulic; Monitor; Mechanical Conveyor (handling building materials); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screed); Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Helicopter Radioman (Signalman); Locomotive (30 tons or under); Motorman; Rodman or Chainman; Ross Carrier (construction jobsite); Rotomist; Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching Machine, 4 ft. depth; Truck Crane Oiler; Tugger Hoist, single drum; Boiler Tender

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); elevator Operator (inside); Fork Lift or Lumber Stacker (construction job site); Line Master; Material Hoist (1 drum); Shuttlecar; Tie Spacer; Towermobile

Group 5: Compressor Operator (over 2); Concrete Mixers (over 1 yard); Concrete Pumps or Pumpcrete Guns; Generators; Grouting Machine; Press-weld (air-operated); Pumps (over 2); Welding Machines (powered other than by electricity)

Group 6: BLH Lima Road Pactor or similar; Boom Truck or Dual Purpose A-Frame Truck; Concrete Batch Plants (wet or dry); Concrete Saws (self-propelled unit) on streets, highways, airports and canals; Drilling and Boring Machinery, vertical (not to apply to waterliners, wagon drills or jackhammers); Highline Cableway Signalman; Locomotives (steam or over 30 ton); Lubrication and Service Engineer (mobile and grease rack); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical Burm Curb and/or Curb and Gutter Machine, concrete or asphalt; Portable Crushers; Post Driver (M1500 and similar); Power Jumbo Operator (setting slip-forms, etc., in tunnels); Roller (except asphalt); Screedman (Barber-Greene and similar)(asphaltic concrete paving); Self-propelled Compactor (single engine); Self-propelled Pipeline Wrapping Machine (perault CSC or similar type); Self-propelled Power Sweeper; Self-propelled Tape Machine; Slip Form Pumps (lifting device for concrete forms); Small rubber-tired tractors; Surface Heaters; Auger-type drilling equipment up to and including 39 ft. depth)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 7: Concrete Conveyor or Concrete Pump, Truck or Equipment mounted (boom length to apply); Concrete conveyor; building site; Deck Engineers; Drilling and Boring Machinery, horizontal (not to apply to waterliners, wagon drills or jackhammers); Dual Drum Mixer; Puller Kenyon Pump and similar types; Gantry Rider (or similar equipment); Hydro-Hammer or similar; Instrument Man; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Mixermobile; Pavement Breaker with or without Compressor Combination; Pavement Breaker, truck mounted with Compressor Combination; Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Refrigeration Plant; Roller Operator (finish asphalt); Self-propelled boom type lifting device (center mount)(10 tons or less M.R.C.); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom); Soil Tester; Truck type Loader; Auger-type drilling equipment over 30 ft. depth

Group 8: Armor-Coater (or similar); Asphalt Plant Engineer; Cast-in-Place Pipe Laying Machine; Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Dozer; Heading Shield Operator; Heavy Duty Repairman and/or Welder; Gradesetter, Grade Checker (mechanical or otherwise); Grooving and Grinding Machines (highways); Ken Seal Machine (or similar); Kolman Loader; Loader (up to 2 yards); Mechanical Trench Shield; Portable Crushing and Screening Plants; Push Cat; Rubber Tired Earth-moving Equipment (up to and including 45 cu. yds. "struck" m.t.c.); Euclids, T-Pulls, DW-10, 10, 21, and similar; Rubber Tired Dozer; Self-propelled Compactor with Dozer; Sheepfoot; Timber Skidder (rubber tired or similar equipment); Tractor drawn Scraper; Tractor; Trenching Machine over 4 ft. depth; Tri-batch Paver; Tunnel Mole Boring Machine; Welder; Woods-mixer (and other similar Pugmill equipment); Vermeer T-600 B Rock Cutter

Group 9: Chicago Boom; Combination Mixer and Compressor (gunite); Combination Slurry Mixer and/or Cleaner; Highline Cableway (5 tons and under); Lull Hi-Lift or similar (20 ft. or over); Mucking Machine (rubber tired, rail or track type); Tractor (with boom)(D-6 or larger and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift (or similar); Chemical Grouting Machine, truck mounted; Combination Backhoe and Loader (up to and including 3/4 cu. yd. m.r.c.); Derrick (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-More Loader and Adams Elegrader; Elevating Grader Heavy Duty Rotary Drill Rig (including Caisson Foundation work and Euclid Loader and similar type; Robbins type Drills); Koehring Skooper (or similar); Lift Slab Machine; (Vagtborg and similar types); Loader (2 yards up to and including 4 yards); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earthmoving Machine (Euclids, Dozers, etc.) (no tandem scraper); Pre-stress Wire Wrapping Machine; Reservoir-Debris Tug (self-propelled floating); Rubber-tired Scraper, self-loading (paddle wheels, etc.); Shuttle Car (reclaim station); Single Engine Scraper over 45 yards; Soil Stabilizer (P & H or equal); Sub-grader (Gurries or other automatic type); Tractor, Compressor Drill Combination; Track Laying type earth moving machine (single engine with tandem scrapers); Train loading station; Trenching Machine, multi-engine with sloping attachment, Jefco or similar; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (hydraulic) (up to and including 1 cu. yd. m.r.c.); Backhoe (cable) (up to and including 1 cu. yd. m.r.c.); Combination Backhoe and Loader over 3/4 cu. yd. m.r.c.); Continuous Flight Tie Back Auger (up to and including 1 cu. yd.)(Crane attached); Cranes (not over 25 tons, Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Power Shovels, Clamshells, Draglines, (up to and including 1 cu. yd. m.r.c); Power Blade (single engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Rubber-tired Scraper, self-loading (paddle wheel twin engine); CMI dual Lane Auto Grader SP30 or similar

Group 11: Automatic Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Canal Trimmer w/ditching attachments; Cranes (over 25 tons up to and including 125 tons); Continuous Flight Tie Back Auger over 1 cu. yd. (including crane); Drott Travelift 650-A-1 or similar (45 tons or over); Euclid Loader when controlled from the pullcat; Highline Cableway (over 5 tons); Loader (over 4 yards, up to and including 12 cu. yds.); Miller Formless M900 Slope Paver or similar; Power Blade (multi-engine); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. m.r.c.); rubber-tired earth moving machines (multiple propulsion power units and two or more scrapers)(up to and including 75 cu. yds. "struck" m.r.c.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired Earthmoving Machines (with tandem scrapers); Slip Form Paver (concrete or asphalt); Tandem Cats; Tower Cranes Mobile including rail mounted; Trencher (pulling attached shield); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yd. per hour); Whirley Crane (over 25 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
(AREAS I and II) (Cont'd)

Group 11-A: Band Wagons (in conjunction with Wheel Excavator); Cranes (over 125 tons); Loader (over 12 cu .yds.; up to and including 18 cu. yds.); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Rubber Tired Multi-purpose Earth Moving Machines (2 units over 75 cu. yds. "struck" m.r.c.); Wheel Excavator (over 750 cu. yds. per hour)

Group 11-B: Loader (over 18 cu. yds.)

Group 11-C: Operator of Helicopter (when used in erection work); Remote Controlled Earthmoving Equipment

DECISION NO. CA77-5041 - Mod. #3 (42 FR 23295 - May 6, 1977) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$13.90	.80	$1.17		.06
Bricklayers; Stonemasons:					
Imperial County	11.22	1.03	1.06		.12
Inyo, Kern and Mono Counties	12.65	1.00	1.45		.07
Riverside and San Bernardino Counties	11.20	1.28	1.55		.14
Ventura County	11.78	1.00	1.20		.05
Electricians:					
Los Angeles County					
Electricians	12.65	1.05	3%+1.95		.07
Cable Splicers	12.95	1.05	3%+1.95		.07
Lathers:					
Ventura County	11.98	1.05	1.13	1.50	.02
Marble Setters; Terrazzo Workers; Tile Setters:					
Imperial County	11.49	.81	1.17		.08
Painters:					
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	11.27	.66	.75	.60	.02
Structural steel and bridge; Paint burner	11.39	.66	.75	.60	.02
Tapers	11.79	.66	.75	.60	.02

DECISION NO. CA77-5041 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brush swing stage (13 stories or less); Paperhangers; Sandblasters, Spray	$11.52	.66	.75	.60	.02
Brush swing stage (over 13 stories)	11.64	.66	.75	.60	.02
Structural steel and bridge, swing	11.67	.66	.75	.60	.02
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating; Spray	11.77	.66	.75	.60	.02
Steeplejack	12.52	.66	.75	.60	.02
Roofers:					
Riverside and San Bernardino Counties	10.45	.80	.75	1.10	
Inyo, Kern and Mono Cos.	10.20	.60	.60		

DECISION NO. CA77-5042 - Mod. #3 (42 FR 23306 - May 6, 1977) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	13.90	.80	1.17		.06
Bricklayers; Stonemasons:					
Imperial County	11.22	1.03	1.06		.12
Kern County	12.65	1.00	1.45		.07
Riverside and San Bernardino Counties	11.20	1.28	1.55		.14
Ventura County	11.78	1.00	1.20		.05
Electricians:					
Los Angeles County					
Electricians	12.65	1.05	3%+1.95		.07
Cable Splicers	12.95	1.05	3%+1.95		.07
Lathers:					
Ventura County	11.98	1.05	1.13	1.50	.02

DECISION NO. CA77-5042 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordance Test Station and Edwards AFB); Los Angeles (except Pomona Area), San Bernardino (West of a line North of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	$11.27	.66	.75	.60	.02
Structural Steel and bridge; Paint burner	11.39	.66	.75	.60	.02
Tapers	11.79	.66	.75	.60	.02
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.52	.66	.75	.60	.02
Brush swing stage (over 13 stories)	11.64	.66	.75	.60	.02
Structural Steel and bridge, swing	11.67	.66	.75	.60	.02
Spray Sandblaster Swing Stage (13 stories or less); Paste Machine; Special Coating, Spray	11.77	.66	.75	.60	.02
Steeplejack	12.52	.66	.75	.60	.02
Roofers:					
Riverside and San Bernardino Counties	10.45	.80	.75	1.10	
Kern County	10.20	.60	.60		
DECISION NO. CA77-5043 - Mod. #4 (42 FR 26122 - May 20, 1977) San Diego County, California					
Change:					
Bricklayers; Stonemasons	11.22	1.03	1.06		.12
Brick, Block and Stonemasons' Tenders	9.87	.77	1.95		

DECISION NO. CA77-5043 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble Setters; Terrazzo Workers; Tile Setters	$11.49	.81	$1.17		.08
Marble, Terrazzo and Tile Helpers	8.74	.81	1.00		.08
DECISION NO. CA77-5044 - Mod. #4 (42 FR 26130 - May 20, 1977) San Diego County, California					
Change:					
Bricklayers; Stonemasons	11.22	1.03	1.06		.12
Brick, Block and Stonemasons' Tenders	9.87	.77	1.95		
Marble Setters; Terrazzo Workers; Tile Setters	11.49	.81	1.17		.08
Marble, Terrazzo and Tile Helpers	8.74	.81	1.00		.08
Decision #IA77-4211-Mod. #1 (42 FR 44427- September 2,1977) Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Kookuk, Lee, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (Excludes Mason City and Abuting Municipalities), Iowa					
Change: Add Mahaska County to the area of coverage.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA77-4169 - Mod. #3					
(42 FR 38850 - July 29, 1977)					
Statewide Louisiana					
Change:					
Asbestos workers - Zone 4	$ 9.63	.45	.50		
Bricklayers & stonemasons:					
Zone 9	9.50		.25		
Carpenters - Zone 1	8.74	.40			
Cement masons (Building Const.):					
Zone 8	8.22		.25		
Cement masons (Highway Const.):					
Zone 1	9.15				
Ironworkers (Highway Const.):					
Zone 1	10.32				
Laborers (Building Const.):					
Zone 1:					
Group 1	5.85	.15			
Group 2	6.00	.15			
Group 3	6.10	.15			
Zone 6:					
Group 1	7.25	.15	.27		.05
Group 2	7.35	.15	.27		.05
Group 3	7.50	.15	.27		.05
Laborers (Highway Const.):					
Group 1 - Zone 1	5.75	.15	.20		.05
Group 2 - Zone 1	5.85	.15	.20		.05
Group 3 - Zone 1	6.30	.15	.20		.05
Group 4 - Zone 1	6.55	.15	.20		.05
Marble setters - Zone 4	8.47		.25		
Millwrights - Zone 4	9.46	.40			
Painters:					
Zone 2:					
Group 1	8.85		.25		.05
Group 2	9.72		.25		.05
Piledrivermen - Zone 9	9.64	.40			

DECISION #LA77-4169 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Highway Const.):					
Group 1 - Zone 1	$ 9.31	.45	.48		.05
Group 2 - Zone 1	9.56	.45	.48		.05
Group 3 - Zone 1	9.06	.45	.48		.05
Group 4 - Zone 1	7.93	.45	.48		.05
Group 5 - Zone 1	7.58	.45	.48		.05
Group 6 - Zone 1	6.88	.45	.48		.05
Group 7 - Zone 1	6.57	.45	.48		.05
Group 8 - Zone 1	7.95	.45	.48		.05
Group 9 - Zone 1	8.18	.45	.48		.05
Group 10 - Zone 1	6.82	.45	.48		.05
Terrazzo workers - Zone 4	8.47		.25		
Tile setters - Zone 4	8.47		.25		
Truck Drivers (Highway Const.):					
Group 1 - Zone 1	6.33				
Group 2 - Zone 1	6.46				
Group 3 - Zone 1	6.52				
Group 4 - Zone 1	6.60				
Group 5 - Zone 1	6.79				
Omit:					
Cement masons (Highway Const.):					
Zone 1 - On concrete lined ditches	8.195				

DECISION NO. MA77-3066- Mod #1
(42 FR 44440- September 2, 1977)
Franklin County, Massachusetts

MODIFICATIONS P. 21

Add:

Page 5:

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

MODIFICATIONS P. 22

DECISION NO. OH77-2073 - Mod. #2
(42 FR 24642 - May 13, 1977)
Fulton & Lucas Counties, Ohio

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.43	.50	1.20		.04
Boilermakers	13.10	.70	1.00		.03
Bricklayers; Marble setters; & Stonemasons:					
Fulton Co. (Twps. of Amboy, Swan Creek, & Fulton); & Lucas Co.	12.155	.93	.90		.01
Fulton Co. (Rem. of Co.):					
Commercial	11.30	.60			
Residential	9.04	.60			
Electricians:					
Commercial	12.35	.50	3%+.55		.2%
Residential	6.78	.50	3%+.55		.1%
Ironworkers	12.30	.93	1.11		.05
Line Construction:					
Linemen	12.76	.45	3%	c	.25%
Cable splicers	13.01	.45	3%	c	.25%
Plumbers; Steamfitters; Pipefitters	12.83	.80	.85		.09

DECISION NO. OH77-2080 - Mod. #3
(42 FR 24655 - May 13, 1977)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

Change:					
Asbestos workers:					
Remaining Cos.	12.185	.50	.80		.02
Bricklayers; Stonemasons:					
Lorain Co.	12.10		.40		.01
Portage & Summit Cos.:					
Commercial construction	11.61	.73	.50		.02
Carpenters; Millwrights; Piledrivermen; Soft floor layers:					
Ashtabula, Cuyahoga, & Lake Cos.:					
Carpenters; Soft floor layers	12.10	.77	1.25		.03
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03

MODIFICATIONS P. 23

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Portage & Summit Cos.:					
Carpenters	11.55	.50	.70		
Millwrights	11.95	.77	1.40		.03
Piledrivermen	12.10	.77	1.25		.03
Lorain Co.:					
Carpenters; Soft floor layers	10.66	.70	1.00	a	.04
Millwrights; Piledrivermen	10.66	.70	1.00	a	.04
Cement masons:					
Ashtabula Co.	11.21	.60	.50		
Lorain Co.	12.10		.40		.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	10.69	.60	.75		
Residential Construction (Excluding Stark Co.)	9.62	.60	.75		
Electricians:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	12.15	.50	3%+.43		.02
Lake Co.:					
Commercial Construction	11.88	.70	3%+.50		.3%
Residential Construction	5.70	.70	3%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	12.50	.60	3%+.80		.1%
Residential Construction	6.48	.60	3%		.1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	12.33	.47	3%+.50		.2%
Residential Construction	7.54	.68	3%+.50		.2%
Portage (Rem. of Co.) & Stark Co.:					
Commercial Construction	11.75	.40	3%+.40		.3%
Residential Construction	7.70	.40	3%+.20		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	12.59	.60	7%		.7%
Ashtabula Co. (Rem. of Co.)	12.00	.90	3%+.85		.2%
Lathers:					
Lorain (Rem. of Co.)	12.45				.01

MODIFICATIONS P. 24

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor):					
Cable splicer op.; Linemen; Pole digging equipment op.	$13.23	.45	3%		½%
Groundmen:					
Over 3 yrs.	10.58	.45	3%		½%
3rd yr.	9.92	.45	3%		½%
2nd yr.	9.26	.45	3%		½%
2nd 6 mos.	7.94	.45	3%		½%
1st 6 mos.	6.62	.45	3%		½%
Ashtabula Co. (Rem. of Co.):					
Cable splicer; Equipment op.; Line truck driver; Linemen	12.00	.90	3%+.85		½%
Groundmen:					
Over 12 mos.	9.00	.90	3%+.85		½%
6 - 12 mos.	7.80	.90	3%+.85		½%
0 - 6 mos.	6.60	.90	3%+.85		½%
Cuyahoga & Lorain (Columbia Twp.) Cos.:					
Cable splicers; Equipment ops.; Linemen; & Welders	12.73	.35	3%		½%
Lake Co.:					
Equipment operators; Linemen	12.28	.70	3%+.50		½%
Lorain (Rem. of Co.) Co.:					
Cable splicers; Equipment ops.; & Linemen	10.83	.60	3%+.80		½%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	12.08	.57	3%+.65		½%
Cable splicers	12.88	.57	3%+.65		½%
Groundmen; Truck drivers	6.04	.57	3%+.65		½%
Equipment operators	9.06	.57	3%+.65		½%

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Portage (Rem. of Co.) Co.:					
Cable splicer; Linemen; Pole digging equipment	$13.23	.45	3%		5%
Stark Co.:					
Cable splicers; Linemen	11.75	.40	3%+.35		5%
Truck drivers	7.95	.40	3%+.35		5%
Groundmen:					
Over 1 yr's experience	7.50	.40	3%+.35		5%
Under 1 yr's experience	7.05	.40	3%+.35		5%
Line equipment ops.	10.60	.40	3%+.35		5%
Marble setters:					
Ashtabula Co.	11.21	.60	.50		
Lorain Co.	12.10		.40		.01
Portage & Summit Cos.	10.55	.68	.50		
Marble setters' helpers:					
Cuyahoga, Lake & Lorain Cos.	11.41		1.00		
Portage & Summit Cos.	10.05	.68	.50		
Painters:					
Stark Co.:					
Commercial:					
Brush; Roller	9.61	.78	.60		.02
Paperhangers	9.71	.78	.60		.02
Drywall	10.01	.78	.60		.02
Spray	10.11	.78	.60		.02
Drywall with machines	10.36	.78	.60		.02
Residential:					
Brush; Roller	9.17	.78	.60		.02
Paperhangers	9.27	.78	.60		.02
Spray	9.67	.78	.60		.02
Drywall	9.57	.78	.60		.02
Drywall with machines	9.92	.78	.60		.02
Pipefitters:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	11.97	1.05	1.10		.05
Plasterers:					
Ashtabula Co.	11.21	.60	.50		
Lorain Co.	12.10		.40		.01
Portage, Stark, & Summit Cos.	10.56	.60	.75		.01

DECISION NO. OH77-2080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Lorain Co.	$12.25	.60	.88		.05
Portage & Summit (So. of Rte. #303) Cos.	11.46	.79	.90		.05
Sheet metal workers:					
Lorain Co.	12.68	.60	.60		.04
Portage, Stark, & Summit Cos.	10.91	.61	.84		.05
Steamfitters:					
Lorain Co.	12.25	.60	.88		.05
Terrazzo workers:					
Ashtabula Co.	11.21	.60	.50		
Lorain Co.	12.10		.40		.01
Portage & Summit Cos.	10.55	.68	.50		
Terrazzo workers' helpers:					
Cuyahoga, Lake, & Lorain Cos.	12.12		.85		
Portage & Summit Cos.	10.05	.68	.50		
Tile setters:					
Ashtabula Co.	11.21	.60	.50		
Lorain Co.	12.10		.40		.01
Portage & Summit Cos.	10.55	.68	.50		
Tile setters' helpers:					
Cuyahoga, Lake, & Lorain Cos.	11.94		1.00		
Portage & Summit Cos.	10.05	.68	.50		
Laborers (Stark County):					
Building & Construction; Signalmen; Flagmen; Tool crib-man; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	8.46	.65	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & Power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	8.66	.65	.40		.05
Gunnite operator	9.06	.65	.40		.05

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4098 - Mod. #5 (42 FR 23433 - May 6, 1977) Jefferson & Orange Cos., Texas					
Change:					
Bricklayers & stonemasons	$11.705	.63	.30		.04
Tile setters	10.395	.63	.30		.04
DECISION #TX77-4190 - Mod. #1 (42 FR 42115 - August 19, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Glaziers	7.40			a	
DECISION #TX77-4191 - Mod. #1 (42 FR 42117 - August 19, 1977) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Asbestos workers	9.79	.50	.50		
Carpenters:					
Millwrights	9.80				1%
Marble setters' finishers	5.62				
Terrazzo workers' finishers:					
Terrazzo finishers	5.62				
Floor machine operators	5.82				
Base machine operators	5.97				
Tile setters' finishers	5.62				

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4192 - Mod. #1 (42 FR 42119 - August 19, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Electricians - Zone 1	9.15		3%		1/4%
DECISION #TX77-4196 - Mod. #1 (42 FR 42126 - August 19, 1977) Cameron, Hidalgo, Starr & Willacy Counties, Texas					
Change:					
Asbestos workers	9.79	.50	.50		
DECISION #TX77-4199 - Mod. #1 (42 FR 42133 - August 19, 1977) Galveston & Harris Cos., Texas					
Change:					
Painters - Galveston Co.:					
Group 1	9.65	.55	.50	.75	.035
Group 2	9.90	.55	.50	.75	.035
Group 3	8.895	.55	.50	.75	.035
DECISION #TX77-4201 - Mod. #1 (42 FR 42136 - August 19, 1977) Howard County, Texas					
Change:					
Ironworkers, Structural & Ornamental	8.53	.55	1.00		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4202 - Mod. #1 (42 FR 42137 - August 19, 1977) Lubbock County, Texas					
Change:					
Ironworkers:					
Structural; Ornamental; Reinforcing	$ 8.53	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the City of Lubbock	8.675	.55	1.00		.10
DECISION #TX77-4205 - Mod. #1 (42 FR 42140 - August 19, 1977) Tom Green County, Texas					
Change:					
Ironworkers:					
Ironworkers	8.53	.55	1.00		.10
On jobs 30 miles or more from the City of San Angelo	8.675	.55	1.00		.10
DECISION #TX77-4206 - Mod. #1 (42 FR 42141 - August 19, 1977) Travis County, Texas					
Change:					
Marble setters' finishers	5.62				
Terrazzo workers' finishers:					
Terrazzo finishers	5.62				
Floor machine operators	5.82				
Base machine operators	5.97				
Tile setters' finishers	5.62				
DECISION #TX77-4207 - Mod. #1 (42 FR 42143 - August 19, 1977) Wichita County, Texas					
Change:					
Ironworkers:					
Structural; Ornamental; Reinforcing	8.53	.55	1.00		.10
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	8.675	.55	1.00		.10
Plasterers	9.80				.01

SUPERSEDEAS DECISION

STATE: Maryland & Virginia

COUNTIES: Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia

DECISION NO. MD77-3109

Supersedes Decision No. MD77-3041, dated March 18, 1977, in 42 FR 15268.

DESCRIPTION OF WORK: Building Construction, including Washington Metropolitan Area Transit Authority - Rapid Rail System (excluding all residential projects).

BUILDING CONSTRUCTION, INCLUDING WMATA - RRTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.92	.59	.89		.03
BOILERMAKERS - BLACKSMITHS	9.40	.60	.90		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	1%+.80		.13
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	10.53	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.80	.62	.95		.03
LABORERS (EXCLUDING WMATA RAPID RAIL TRANSIT SYSTEM)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	6.93	.30	.40		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01
CARPET LAYERS	7.05	.30			.05

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BUILDING CONSTRUCTION, INCLUDING WMATA - RRTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	$12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	12.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.15	.55	.65		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.57	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, Refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

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BUILDING CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO AND MOSAIC WORKERS	10.68	.60	.40		
TERRAZZO WORKERS' HELPERS	9.30	.50	.40		
TILE SETTERS	10.68	.60	.40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of 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. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F(provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
GROUP I	$8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.635	.60	.45		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys, tool room men

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, townasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shoter and lagger, creosote material handler, corrosive enamel or equal, paving breaker and jackhammer operators

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, joiner, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzleman and potman

GROUP VI - Powderman, master form setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hastings block or similar type)

GROUP VIII - Miners

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WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I

Brakeman, bull gang, dumper, trackman, concrete man

GROUP II

Chuck tender, powderman in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III

Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman.

GROUP IV

Mucking machine operator (air)

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WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

COMPRESSED AIR RATES		Rates Paid Daily	Fringe Benefits Payments			
Gauge Pressure Pounds	Work Period Hours		H & W	Pensions	Vacation	Education and/or Appr. Tr.
1-14	7	$91.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/2	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

Footnotes:

a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

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(INCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	$11.80	.55	.55		.12
GROUP II	11.50	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete fimishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Bristol
DECISION NO.: MA77-3064 DATE: Date of Publication
Supersedeas Decision No. MA76-3097 dated August 13, 1976 in 41 FR 34509.
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction and Marine Construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Easton	10.26	.80	.80		.01
Remainder of County	10.28	1.00	1.18		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONEMASONS:					
Easton, N. Easton & S. Easton	9.85	.85	1.15		.06
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Swansea, S. Dartmouth & Westport	10.25	.80	.80		.06
Remainder of County	9.95	1.10	.80		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Easton, N. Easton & S. Easton	9.30	.50	.65		.02
Attleboro, N. Attleboro & S. Attleboro	10.20	.60	1.00		.07
Remainder of County:					
All work over $1½ million including residential	9.30	.60	1.00		.02
Work from $1 million - 1½ million	8.83	.60	1.00		.02
Work from $5,000 - 1 million	8.37	.60	1.00		.02
Work from $2,000 - 500,000	7.44	.60	1.00		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.60	1.00		.02
ELECTRICIANS:					
Attleboro, N. Attleboro & Seekonk	9.40	.48	1%+1.40		.02
Residential	6.00	.38	1%		.02
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth:					
All other commercial	10.00	.55	1%+.70		a
Repair, jobbing, commercial, remodel, rewiring jobs with electrical contracts under $25,000	7.85	.55	1%+.70		a
Residential	5.70	.40	1%+.70		a
Easton:					
Electrical contracts less than $40,000.00	9.15	6%	5%	2%	.5%
Electrical contracts $40,000.00 or more	11.05	6%	5%	2%	.5%

DECISION NO: MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Residential	6.60	.50	5%	2%	.5%
Fall River, Freetown, Somerset Swansea & Westport	9.70	.4%	1%+.80	4%	½%
Remainder of County	11.09	.75	1%		.1%
Residential	8.10	.50	1%		.1%
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Easton	10.40	.57	.64		.03
Remainder of County	8.88	.52	1.03		.01
IRONWORKERS:					
Easton, Mansfield, N. Easton	10.49	1.00	1.50		.06
Remainder of County	9.43	.70	1.50		.05
LABORERS (BUILDING):					
Laborers; carpenter tenders; wrecking laborers	7.50	.60	.70		.10
Jackhammer op.; pavement breakers; asphalt rakers; carbide core drilling machine; Cahin saw op.; pipelayer; barco type jumping tampers; laser beam; concrete pump; mason tenders; mortar mixers; ride-on motorized buggy, fence and beam rail erectors and plasterers' tenders	7.75	.60	.70		.10
Air track; block pavers; rammers; curb setters	8.00	.60	.70		.10
Blasters; powdermen	8.37	.60	.70		.10
Open air caisson; cylindrical work & boring crew:					
Laborers; Top man	7.50	.60	.70		.10
Helper	8.63	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.45	.65	.55		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	e	3/8 of 1%
Equipment Operators	10.78	.65	1%+.50	e	3/8 of 1%
Driver Groundman	8.53	.65	1%+.50	e	3/8 of 1%
Groundman	7.18	.65	1%+.50	e	3/8 of 1%

DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE & TILE SETTERS; TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERS' HELPERS	9.95		.25		
MILLWRIGHTS	10.00	.60	1.00		.07
PAINTERS:					
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth: Brush & roller	8.75	.70	.65		
Spray	10.00	.70	.65		
Sandblasting, chipping hammer, power brush	10.25	.70	.65		
Paperhangers & vinyl installer	9.25	.70	.65		
Steel	12.00	.70	.65		
Remainder of County:					
Brush, taper	9.76	.72	1.05		.04
Steel (new & repaint steel)	11.88	.72	1.05		.04
Spray, sandblasting	10.76	.72	1.05		.04
All other repaint & alteration	8.61	.72	1.05		.04
PILEDRIVERMEN	10.15	.60	1.00		
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS & STEAMFITTERS:					
Easton	10.95	.80	.80		.05
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, S. Dartmouth, Swansea & Westport	9.90	.76	1.16		.15
Residential	8.91	.76	1.16		.15
Remainder of County	8.97	.60	.73		
ROOFERS:					
Attleboco, Taunton, Mansfield, Easton, Norton, Raynham & N. Attleboro:					
Journeyman	9.75	.70	1.20		.05
Re-roofing and repair	9.20	.70	1.20		.05
Pitch work	10.75	.70	1.20		.05
Remainder of County:					
Journeyman and mechanics	9.20	.75	.30		
Helpers Class "A"	8.50	.75	.30		
Helpers Class "B"	5.52	.75	.30		
Mechanics on shingle work	7.36	.75	.30		

DECISION NO. MA77-3064	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Rehboth, Seekonk, Somerset, Swansea & Westport	9.48	.95	.45		
Remainder of County	10.23	1.16	1.10		.06
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Chirstmas Day

FOOTNOTES:

a. Employer contribution of 1.00 per journeyman Electricians per week

b. Employer contributes 4% of 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. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, providing 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.

e. Holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.

DECISION NO. MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

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CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA77-3064

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP VI	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bull-dozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA77-3064

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. 10 paid holidays: A Through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA77-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks [1]

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NO. MA77-3073 DATE: Date of Publication
Supersedes Decision No. MA76-2106, dated September 3, 1976 in 41 FR 37409.
DESCRIPTION OF WORK: Building Construction (including residential), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.41	.57	.65		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, CEMENT MASONS, PLASTERERS AND STONEMASONS:					
Warren	9.55	.55	.80		.03
Hopedale, Milford & Southboro	9.65	1.20	1.00		.08
Ashburnham, Athol, E. Templeton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon	10.25	.90	.70		.06
Remainder of County	9.50	.70	.85		.02
CARPENTERS, SOFT FLOOR LAYERS:					
Blackstone, Millville	9.40	.65	.90		.05
Ashburnham, Athol, E. Gardner, E. Templeton, Fitchburg, Gardner, Harvard, Leominster, Lunenburg, N. Leominster, Petersham, Phillipston, Royalston, S. Ashburnham, S. Royalston, Templeton, Westminister, Winchendon, Berlin, Bolton, Clinton, Northboro, Southboro, Westboro, Hopedale, Mendon, Milford, Upton, W. Upton	10.20	.60	1.00		.07
Hardwick, Warren, W. Brookfield	9.65	.45	.65		.02
Remainder of County	10.30	.50	1.00		.07
ELECTRICIANS:					
Warren, W. WArren	9.85	.70	1%+.30	.43	.03
Ashburnham, Athol, Bolton, Fitchburg, Garden, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Phillipston, Westminster, and Winchendon	10.05	.75	1%+.70		.02
Remainder of County	10.13	8%	3%%+.24		.01
ELEVATOR CONSTRUCTORS	10.01	.445	.29	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+a+b	.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
East Douglas	8.68	.52	.85		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Southboro	10.49	.70	1.50		.06
Blackstone	9.43	.70	1.50		.03
Remainderof County	10.49	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders and wrecking laborers	7.50	.60	.70		.10
Jackhammer ops, pavement breakers, asphalt rakers, carbide core drilling machine, chain saw ops, pipelayers, barco type jumping tampers, laser beam, concrete pump, mason tenders, mortar mixers, ride-on motorized boggies, and fence and beam rail erectors and plasterers' tenders	7.75	.60	.70		.10
Air track, block pavers, rammers, and curb setters	8.00	.60	.70		.10
Blasterers and powdermen	8.25	.60	.70		.10
Open air caisson and cylindrical work and boring crew:					
Laborer, topman	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS:					
Sturbridge and Warren	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
Blackstone and Lunenburg	9.25	.45	.55		
Remainder of COunty	10.12	1.65	.25		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	c	3/8 of 1%
Equipment operator	10.78	.65	1%+.50	d	3/8 of 1%
Driver groundman	8.53	.65	1%+.50	d	3/8 of 1%
Groundman	7.18	.65	1%+.50	d	3/8 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, Westminster	9.80	.85	1.10		
Auburn, Barre, Berlin, Blackstone Bolton, Boylston, Brookfield, CHarlton, Clinton, Douglas, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro & Worcester	9.00	.70	.60		.02
Warren	9.55	.55	.55		.03
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Warren, W. Warren:					
Brush & roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' steel	9.107	.65	.40		.03
Swing stage over 40' steel	9.42	.65	.40		.03
Holedale, Mendon, Milford, Southboro, Upton & Westboro:					
Brush (New Construction)	7.85	.35	.35		.06
Brush (Repaint)	7.30	.35	.35		.06
Steel (New Construction)	8.10	.35	.35		.06
Steel (Repaint)	7.55	.35	.35		.06
Spray (New Construction)	8.80	.35	.35		.06
Spray (Repaint)	8.25	.35	.35		.06
Remainder of County:					
Brush	10.08	.75	.70		.02
Steel	12.20	.75	.70		.02
Sandblasting; Spray	11.08	.75	.70		.02
Repaint	8.61	.75	.70		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	10.15	.60	1.00		
PIPEFITTERS:					
Holedale & Southboro	9.97	.53	.55		.05
Remainder of County	10.18	.45	.40		.05
Pondville	11.76	.94	1.20		.07
PLUMBERS:					
Hopedale and Southboro	11.22	.98	.85		.05
Ashburnham, Athol, Bolton, Fitchburg, Garden, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Royalston, Templeton, Westminster and Winchendon	10.02	.60	.65	.40	.05
Remainder of County	10.83	.65	.45		.05
ROOFERS	10.00	.77	.63		
SHEET METAL WORKERS	10.20	.85	.75		.05
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS AND TILE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling and Westminster Counties	9.80	.85	1.10		
Auburn, Barre, Berline, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro and Worcester Counties	9.00	.70	.60		.02
Warren County	9.55	.55	.55		.03
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston, Winchenden (only Tile Setters)	9.45	.60	.60		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-CHristmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

d. Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E. Brookfield, N. Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W. Brookfield & Warren:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakchoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts ip to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

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 throogh F, Veterans' Day and Columbus Day

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Sturbridge, Brookfield, N&E Brookfield, Oakham, Barre, Templeton, Winchendon, Royalston, Phillipston, Athol, Petersham, Hardwich, New Braintree, W. Brookfield, and Warren:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are For Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) (}) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASSIFICATIONS

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Remainder of County					
CLASS I	$10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, yock rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressocs, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (cperating and installing), syphones-pullsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

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, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: MA77-3127
COUNTY: Hampden
DATE: Date of Publication
Supersedes Decision No. 75MA-2134, dated December 19, 1975 in 40 FR 59166.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$9.95	.94	1.25		.01
Bricklayers	9.55	.55	.80		.06
Carpenters & Soft floor layers	9.65	.45	.65		.02
Cement masons	6.90				
Drywall applicator	7.30				
Drywall finisher	7.50				
Electricians:					
Holyoke, Chester:					
Contracts $75,000 and over	10.51	.70	1%+.40		.02
Contracts under $75,000	8.60	.70	1%+.40		.02
Remainder of County	5.32	.46	1%+.15	.43	a
Glaziers	7.41				
Ironworkers; structural, ornamental, & reinforcing	10.05	.70	1.75		.09
Laborers:					
Laborers	7.50	.60	.70		.10
Mason tenders	7.75	.60	.70		.10
Lathers	9.40	.45	.25		.01
Drywall work	8.30	.45	.25		.01
Painters,	8.92	.65	.40		.03
Plasterers	9.55	.55	.80		.06
Plumbers	9.85	.96	1.00	c	.10
Roofers	9.165	.82	1.06		
Sheet metal workers	9.41	.85	1.16		.03
Power equipment operators:					
Backhoe, crane, gradall, and trenching machines	9.73	.85	.75	b	.07
Bulldozer, pavers, rollers	9.33	.85	.75	b	.07
Graders	9.53	.85	.75	b	.07
Oilers	7.03	.85	.75	b	.07

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:
a. $.10 per man per week
b. 8 paid holidays; A through F, Veterans' Day, and Columbus Day.
c. 2 paid holidays: Independence Day and Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.

SUPERSEDEAS DECISION

STATE: Michigan — COUNTIES: Statewide
DECISION NO. MI77-2125 — DATE: Date of Publication
Supersedes Decision No. MI76-2140, dated November 18, 1976 in 41 FR 51318
DESCRIPTION OF WORK: Highway, Bridge, Airport and Sewer Construction exlcusive of Buildings

CARPENTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
MACOMB, MONROE, OAKLAND, ST. CLAIR & WAYNE COUNTIES: in LIVINGSTON COUNTY The Townships of Brighton, Deerfield, Genoa, Hartland, Osceola & Tyrone, in SANLAC COUNTY That part East of a line projected North & continuing the East Lapeer & West St. Clair county lines to South Huron County line	10.48	.75	9%	11%	.04
ZONE 2E					
ARENAC, BAY, CLARE, CLINTON, GENESSEE, GLADWIN, GRAIOT, HURON, INGHAM, ISABELLA, IOSCO, JACKSON, LAPEER, LENAWEE, MIDLAND, OGEMAW, SAGINAW, SHIAWASSEE, TUSCOLA & WASHTENAW COUNTIES; the Remainder of LIVINGSTON & SANILAC COUNTIES; in EATON COUNTY, All but the Townships of Bellevue, Kalamo, Vermontville & Walton; in IONIA COUNTY, the Townships of Danby, Orange, Portland & Sevewa	10.38	.60	.60		.01
ZONE 2W					
ALLEGAN, BARRY, BRANCH, CALHOUN CASS, HILLSDALE, KALAMAZOO, KENT, LAKE, MANISTEE, MASON, MESOCTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OTTAWA, ST. JOSEPH & VAN BUREN COUNTIES; the Remainder of EATON & IONIA COUNTIES; in BERRIEN COUNTY, all but the Townships of Chicaming, New Buffalo & 3 Oaks; in BENZIE COUNTY, the Townships of Blaine, Colfax, Crystal, Lake Gimore, Joyfield & Weldon	10.25	.60	.60		.01

DECISION NO. MI77-2125

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3LP					
ALCONA, ALPENA, ANTRIM, CHARLEVOIX, CHEBOYGAN, CRAWFORD, EMMET, GRAND TRAVERSE, KALKASKA, LEELEANAW, MISSAUKEE, MONTMORENCY, OSEOLA, OSCADA, OTSEGO, PRESQUE, ISLE ROSCOMMON & WEXFORD COUNTIES & The remainder of BENZIE COUNTY	10.14	.60	.60		.01
ZONE 3UP					
ALGER, BARAGA, CHIPPEWA, DELTA DICKINSON, GEOGEBIC, HOUGHTON, IRON, KEWEENAW, LUCE, MAKINAC, MARQUETTE, MONOMINEE, ONTONAGON & SCHOOLCRAFT COUNTIES	10.09	.60	.60		.01
ZONE 4					
THE REMAINDER OF BERRIEN COUNTY	12.03	.50	.57		.05
CEMENT MASONS:					
ZONE 1					
GENESSE, LIVIGINSTON, MACOMB, MONROE, OAKLAND, SAGINAW, WASHTENAW & WAYNE COUNTIES- Cement masonry related to Highway, Road & Street Construction	10.90	.50	.50		.02
ZONE 2 - Remainder of State	10.55	.50	.50		.02
PAINTERS:					
KENT, MONTCALM, MECOSTA & the West ½ of IONIA COUNTIES only:					
Brush	8.05	.50	.25		.02
Bridges over Highway or Railroads	8.30	.50	.25		.02
Steam Cleaning/Sandblasting; Bridge Work over Rivers or Lakes, Spray & Pressure Roller	8.55	.50	.25		.02

LABORERS: HIGHWAY CONSTRUCTION	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Basic Hourly Rates ZONE 2A	Basic Hourly Rates ZONE 3	Basic Hourly Rates ZONE 3A
CLASS A	8.78	8.26	8.01	7.90	7.75
CLASS B	8.56	8.03	7.78	7.60	7.45
CLASS B-1	8.43	8.12	7.87	7.88	7.73
CLASS B-2	8.24	7.93	7.68	7.70	7.55
CLASS C	8.35	7.87	7.62	7.55	7.40
CLASS D	8.24	7.71	7.46	7.35	7.20
CLASS E	8.18	7.65	7.40	7.25	7.10
CLASS F	8.15	7.57	7.32	7.20	7.05
FRINGE BENEFITS FOR ALL ZONES AND ALL CLASSIFICATIONS					
$.55 Health & Welfare					
.35 Pension					
.65 Vacation and Holiday					
.04 Apprentice Training					

CLASS A - Line form setter for curb or pavement
CLASS B - Pipe Layers, oxygen gun
CLASS B - 1 - Asphalt Raker
CLASS B-2 Asphalt Tamper and asphalt raker helper
CLASS C - Tunnel miner (highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powderman, wagon drill and air track operators, curb and side rail setters' helpers, diamond and core drills.
CLASS D - Mixer operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.) spreader, boxman (asphalt, stone, gravel, etc.), concrete paddler power chain saw operator, paving batch truck dumper, asphalt screed checker, grade checker and tunnel mucker (highway work only), concrete saw (under 40 h.p.) and dry pack machine
CLASS E - Cement handler or dockman, topman, asphalt dust handler
CLASS F - Asphalt shoveler, or loader, asphalt palt misc., axe man, batch bin (no power), burlap man, carpenters helpers, subgrade labor (hand tools), yard man, guard rail builder's helper, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helpers) sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e.g. wire mesh, steel mats, dowell boards, etc.), masons or bricklayer tender on manholes, headwall, etc.

ZONE DEFINITIONS
ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties
ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Clahoun, Cass, Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskingum, St. Joseph Saginaw, Sanilac, Shiawassee, Tuscola, & van Buren
ZONE 2A - Ionia, Kent Montcalm, & Ottawa Counties
ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga,Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Geogebic Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otsego, Presque Ilse, Roscommon, Schoolcraft, and Wexford Counties
ZONE 3A - Mecosta and Osceola Counties.

DECISION NO. MI77-2125 SW LAB OC

LABORERS: OPEN CUT CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.54	.75	.60	.75	.04
CLASS 5	8.59	.75	.60	.75	.04
ZONE 2 - WASHTENAW & SOUTH EAST PART OF LIVINGSTON COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.78	.55	.35	.55	.04
CLASS 3	7.83	.55	.35	.55	.04
CLASS 4	7.88	.55	.35	.55	.04
CLASS 5	7.93	.55	.35	.55	.04
ZONE 3 - SANILAC, ST. CLAIR & MONROE COUNTIES					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04
ZONE 4 - JACKSON, HILLSDALE & LENAWEE COUNTIES					
CLASS 1	7.40	.55	.35	.55	.04
CLASS 2	7.50	.55	.35	.55	.04
CLASS 3	7.60	.55	.35	.55	.04
CLASS 4	7.65	.55	.35	.55	.04
CLASS 5	7.75	.55	.35	.55	.04
ZONE 5 - CLINTON, EATON,INGHAM, WESTERN PART OF LIVINGSTON & CITY OR PORTLAND IN IONIA COUNTY					
CLASS 1	7.70	.55	.35	.55	.04
CLASS 2	7.80	.55	.35	.55	.04
CLASS 3	7.90	.55	.35	.55	.04
CLASS 4	7.95	.55	.35	.55	.04
CLASS 5	8.05	.55	.35	.55	.04

DECISION NO. MI77-2125 SW LAB OC

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION ZONE 6 - GENESEE, LAPEER & SHIAWASSEE COUNTIES					
CLASS 1	7.50	.55	.55	.55	.04
CLASS 2	7.60	.55	.55	.55	.04
CLASS 3	7.70	.55	.55	.55	.04
CLASS 4	7.75	.55	.55	.55	.04
CLASS 5	7.85	.55	.55	.55	.04
ZONE 7 - SAGINAW, BAY, MIDLAND GRADITOT, TUSCOLA, ISABELLA, HURON, CLARE, GLADWIN, A RENAC, ROSCOMMON & OGEMA COUNTIES					
CLASS 1	7.65	.55	.35	.55	.04
CLASS 2	7.75	.55	.35	.55	.04
CLASS 3	7.85	.55	.35	.55	.04
CLASS 4	7.90	.55	.35	.55	.04
CLASS 5	8.00	.55	.35	.55	.04
ZONE 8 - BARRY, CALHOUN, BRNACH, ALLEGAN, KALAMAZOO, ST. JOSEPH, VAN BUREN, BERRIEN, CASS, MUSKEGON, OCEANA, NEWAGO, S.W. PART OF EATON TO CITY OF OLIVET & EASTERN PART OF LAKE COUNTY					
CLASS 1	6.65	.55	.35	.55	.04
CLASS 2	6.75	.55	.35	.55	.04
CLASS 3	6.85	.55	.35	.55	.04
CLASS 4	6.90	.55	.35	.55	.04
CLASS 5	7.00	.55	.35	.55	.04
ZONE 9 - OSCELA, MCOOSTA, KENT, MONTCALM, OTTAWA, IONIA (EXCEPT CITY OF PORTLAND) COUNTIES					
CLASS 1	6.10	.55	.35	.55	.04
CLASS 2	6.20	.55	.35	.55	.04
CLASS 3	6.30	.55	.35	.55	.04
CLASS 4	6.35	.55	.35	.55	.04
CLASS 5	6.45	.55	.35	.55	.04

DECISION NO. MI77-2125 SW LAB OC

LABOREPS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OPEN CUT CONSTRUCTION					
ZONE 10 - MANISTEE, MASON, EMMETT, CHEBOYGAN, ANTRIM, CHARLEBOIX, OTESGO, LEELANAU, BENZIE, GRAND TRAVERSE, KALKASKA, CRAWFORD, WEXFORD, MISAUKEE, PRESQUE ISLE, MONTMORENCY, ALPENA, OSCODA, ALCONA & IOSCO COUNTIES					
CLASS 1	5.75	.55	.35	.55	.04
CLASS 2	5.85	.55	.35	.55	.04
CLASS 3	5.95	.55	.35	.55	.04
CLASS 4	6.00	.55	.35	.55	.04
CLASS 5	6.10	.55	.35	.55	.04
ZONE 11 - ENTIRE UPPER PENINSULA					
CLASS 1	6.77	.55	.35	.55	.04
CLASS 2	6.87	.55	.35	.55	.04
CLASS 3	6.97	.55	.35	.55	.04
CLASS 4	7.02	.55	.35	.55	.04
CLASS 5	7.07	.55	.35	.55	.04

LABORERS: OPEN CUT CONSSTRUCTION

CLASS 1 - Construction Laborer
CLASS 2 - Mortar & Material Mixers, Concrete form man, Signal Man, Well Point Man, Manhole, Headwall & Catch Basin builder, Guard Rail Builders & Fence Erectors
CLASS 3 - Air, Gasoline, Electric Tool Opr., Vibrator Opers., Driller, Pumpman Tar Kettle Opr., Bracers, Rodder, reinforced Steel or mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench or Excavating Grade Man
CLASS 5 - Pipelayers (inclu. crock, metal pipe, multi-plate or other coudsits)

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SW LAB TSC

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION					
ZONE 1 - WAYNE, OAKLAND & MACOMB COUNTIES					
CLASS 1	8.36	.75	.60	.75	.04
CLASS 2	8.44	.75	.60	.75	.04
CLASS 3	8.49	.75	.60	.75	.04
CLASS 4	8.64	.75	.60	.75	.04
CLASS 5	8.84	.75	.60	.75	.04
CLASS 6	9.09	.75	.60	.75	.04
ZONE 2 - ALL COUNTIES IN THE UPPER & LOWER PENINSULA OF MICHIGAN EXCLUDING WAYNE, OAKLAND, MACOMB, GENESEE, SHIAWASSEE & LAPEER COUNTIES					
CLASS 1	8.33	.55	.35	.55	.04
CLASS 2	8.41	.55	.35	.55	.04
CLASS 3	8.45	.55	.35	.55	.04
CLASS 4	8.61	.55	.35	.55	.04
CLASS 5	8.81	.55	.35	.55	.04
CLASS 6	9.06	.55	.35	.55	.04

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SW LAB-TSC

LABORERS: TUNNEL, SHAFT & CIASSON CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - GENESEE, SHIA-WASSEE & LAPEER COUNTIES					
CLASS 1	8.13	.55	.55	.55	.04
CLASS 2	8.21	.55	.55	.55	.04
CLASS 3	8.26	.55	.55	.55	.04
CLASS 4	8.41	.55	.55	.55	.04
CLASS 5	8.61	.55	.55	.55	.04
CLASS 6	8.86	.55	.55	.55	.04

CLASS 1 - Tunnel, Shaft & Caisson Laborer, Dump Man, Shanty Man, Hog House Tender, Testing Man (on gas)

CLASS 2 - Manhole, Headwall, Catch Basin Builder, bricklayer tender, Mortar Man, Material Mixers, Fence Erector & Guard rail Builder

CLASS 3 - Air Tool Operator (Jackhammerman, brush Hammerman & Grinding Man) Forst Bottom Man, Second Bottom Man, Gage Tender, Car Pusher, Carrier Man, Concrete Man, Concreete form Man, Concrete Repair Man, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor Man, Floor Man, Gasoline & Electric Tool Operator, Gunnite Operator, Pump Man, Outside Lock tender, Scaffold Man, Top Signal Man, Switch Man, Track Man, Tugger Man, Utility Man, Winch Operator Concrete Saw Operator Under 40 H.P.)

CLASS 4 - Tunnel, Shaft & Caisson Mucker, Bracer, Man, Under plate Man, Long Haul Dinky driver & Well Point Man

CLASS 5 - Tunnel, Shaft & Caisson Miner, drill Runner, Keyboard Operator, Power Knife Operator, reinforced Steel or Mesh Man (Waire Mesh, sTeel Mats, Dowell Bars, ETc.)

CLASS 6 - Dynamite Man & Powderman

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LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, St. Clair & Macomb Counties					
ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment					
Zone 1	6.57				
Zone 2	6.35				
CLASS B Landscape Laborer, Truck Driver, Material Haulers & Small Power Equipment					
Zone 1	4.82				
Zone 2	4.60				

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HWY HC I-I & II

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Huron, Lapeer, Macomb, Oakland, St. Clair, Sanilac, Tuscola & Wayne Counties; Ingham County - The townships of Leroy, Locke, Wheatfield, White Oak, & Williamson; Lenawee County - Townships of Clinton & Macon; Livingston County - All but the Townships of Tyrone, Cohoctah, Deerfield and Unadilla, Monroe County - all but the Townships of Bedford, Erie, Lasalle and Whiteford, Washtenaw - all but the Townships of Lyndon, Manchester, Sharon & Sylvan					
Lineman-Technician	12.79	1.00	7%		4%
Cable Splicer	13.34	1.00	7%		4%
combination Equip. Operator Grroundman	10.31	1.00	7%		4%
Combination Driver - Groundman	9.72	1.00	7%		4%
Groundman	8.97	1.00	7%		4%
ZONE 2 - Remainder of State					
Linemen & Hvy. Equipment Technician	9.73	.45	3%	a	.5%
Cable Splicer	10.13	.45	3%	a	.5%
Combination Digger Operator-Tractor Operator					
1st 6 Months	7.04	.45	3%	a	.5%
Over 6 months	7.61	.45	3%	a	.5%
Light Equipment Operator; Groundman; Distribution Line Truck Driver Groundman:					
1st 6 Months	6.12	.45	3%	a	.5%
Over 6 Months	6.67	.45	3%	a	.5%
Combination winch Truck Driver Groundman					
1st 6 months	5.57	.45	3%	a	.5%
Over 6 Months	6.37	.45	3%	a	.5%
Combination Truck driver - Groundman	5.38	.45	3%	a	.5%

FOOTNOTE: a - 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day & Christmas Day.

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MICH-8-PBD-U-2-1

POWER EQUIPMENT OPERATOR:
UNDERGROUND CONSTRUCTION

ZONE 1
*JURISDICTION BELOW

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	20%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similer type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

*JURISDICTION: WAYNE, OAKLAND, MACOMB, MONROE, LENAWEE, HILLSDALE, BRANCH, CALHOUN, JACKSON, WASHTENAW, LIVINGSTON, INGHAM, EATON, CLINTON, SHIAWASSEE, GENESEE, LAPEER, ST. CLAIR, SANILAC, TUSCOLA, SAGINAW, GRATIOT, MIDLAND, BAY & HURON COUNTIES.

DECISION NO. MI77-2125

MICH-9-PBD-U Z-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION
ZONE 2

REMAINDER OF THE STATE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power Shovel, crane (crawler, Truck type or pile driving), dragline, backhoe, clamshell, trencher (over 8' digging cpapcity), mechanic, endloader (over 1½ cu. yd. cap.), scraper sel-propelled or tractor drawn), dozer (9 blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equvalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batch plant oper., concrete), backfiller tamper, well drilling rig, slip form paver, slope paver conveyor loader (euclid type) grader

CLASS II - Trencher (8' digging capacity & smaller), endloader 1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller or diesel powered or powered by generator of 300 amps or more - inclusive of other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors (600 cu. ft. per min or larger), pumpcrete machine (and similar equipment) (mechanic helper, maintenance man, boom truck (non-swinging, non-powered type boom), welding machine or generator (2 or more-300 amp or larger - gas or diesel powered), pump (2 or more 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger), wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day - gas or diesel powered - ex cluding equipment, self propelled (6' wideor over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt, curing machine (self-propelled), concrete saw (40 H. P. or over)

DECISION NO. MI77-2125 MICH-10-PBO-3

POWER EQUIPMENT OPERATORS: Wayne, Monroe, Washtenaw, Oakland, Macomb & Genesee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
HIGHWAY CONSTRUCTION					
CLASS 1	9.49	.80	1.00	10%	.05
CLASS 2	9.26	.80	1.00	10%	.05
CLASS 3	8.81	.80	1.00	10%	.05
CLASS 4	8.67	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISION NO. MI77-2125 MICH-11-PBO-3

POWER EQUIPMENT OPERATORS: Remainder of State Zone 2 Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.41	.80	1.00	10%	.05
CLASS 2	9.15	.80	1.00	10%	.05
CLASS 3	8.69	.80	1.00	10%	.05
CLASS 4	8.44	.80	1.00	10%	.05

CLASS 1 - Asphalt plant, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile driver, roller (asphalt), blade grader, trenching mach. (ladder ro wheel), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loader (euclid type), endloader (1 yd. & over), bulldozer, hoisting Eng., tractor, finishing (asphalt), mechanic, pump (6" discharge or over, gas, diesel powered or generator 300 amp or more), shouldering or gravel dist. Mach. (self- propelled), backhoe (over 3.8 yd. bucket), side boom tractor (type D-4 or larger), tube finisher (slip form paving), gradall & similar mach., self-propelled asphalt planer, concrete batch plant, asphalt slurry Mach., self-propelled asphalt paver, concrete pump 3" and over

CLASS 2 - Sweeper (wayne type & similar equip.), screening plant, washing plant, crusher, backhoe (3/8 yd. bucket or less), side boom tractor (smaller than D-4 or equvilent

CLASS 3 - Air compressor (600 cu. ft. per min or more), air compressor (2 or more less than 600 cfm), wagon drill, concrete breaker, farm tractor w/attachments.

CLASS 4 - Oiler, firemen, Mechanic helper, Trencher (service), flecplanes, cleftpanne, graders selfpropelled fine grade form (concrete), concrete finishing Mach., boom or winch hoist truck, endloader under 1 yd. cap., roller (other than asphalt), curing equipment (self-propelled), concrete saw 40 HP up, power bin, asphalt plant driver, vibratory compaction equip., power driver guard post driver, mulching equipment, stump remover, boiler firemen, concrete pump under 3", self propelled mesh installer, farm type tractor

DECISION NO. MI77-2125

SIGN INSTALLERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A					
Performs all necessary labor and uses all tools & equipment required to construct & set concrete forms required in the installation of highway street signs:					
ZONE 1	8.32	a20.00	a22.00	.15	
ZONE 2	7.73	a20.00	a22.00	.15	
CLASS B					
Performs all miscellanious labor, uses all hand and power tools and operates all other equipment mobile or otherwise, required for the complete installation of highway and street signs:					
ZONE 1	8.07	a20.00	a22.00	.15	
ZONE 2	7.48	a20.00	a22.00	.15	

FOOTNOTE:

a. Per week Per employee

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne
ZONE 2 - Remainder of State

DECISION NO. MI77-2125 MICH-SWR-TO

TRUCK DRIVERS - HIGHWAY CONST.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & wayne					
CLASS 1	9.38	a27.50	a28.00	.40	
CLASS 2	9.48	a27.50	a28.00	.40	
CLASS 3	9.63	a27.50	a28.00	.40	
ZONE 2					
Remainder of State					
CLASS 1	9.28	a27.50	a28.00	.40	
CLASS 2	9.38	a27.50	a28.00	.40	
CLASS 3	9.53	a27.50	a28.00	.40	

CLASS 1 - Truck driver (on all trucks except dump trucks of 8 cubic yds. capacity or over, tandem axle trucks, transit mix and semis, euclid type equipment, double bottoms and low boys)

CLASS 2 - Truck drivers on dump trucks of 8 cubic yards capacity or over (including tandem axle trucks, tandem axle water trucks, transit mix and semis.)

CLASS 3 - Euclid type equipment, double bottoms and low boys for hauling heavy equipment.

FOOTNOTE:
a. Per week, Per employee

DECISION NO. MI77-2125 MICH-SWH-TD

TRUCK DRIVERS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Wayne, Oakland, Macomb, Washtenaw, Monre, St. Clair & Genesee Counties					
CLASS 1	9.08	a24.00	a28.00		
CLASS 2	9.21	a24.00	a28.00		
CLASS 3	9.41	a24.00	a28.00		
Lapeer & Shiawassee Counties:					
CLASS 1	8.98	a24.00	a28.00		
CLASS 2	9.11	a24.00	a28.00		
CLASS 3	9.31	a24.00	a28.00		
Jackson, Lenawee & Hillsdale Counties					
CLASS 1	7.30	a19.00	a22.00		

CLASS 1 - Truck driver (except dump trucks of 8 cubic yards capacity or over, Pole Trailers, Semis, Low Boys, euclid, Double Bottom & Fuel Trucks.
CLASS 2 - Truck Driver on Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.
CLASS 3 - Low Boy, Euclid & Double Bottom Driver

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams & York
DECISION NO.: PA77-3128 DATE: Date of Publication
Supersedes Decision No. PA77-3028, dated April 15, 1977, in 42 FR 20098.
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			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.91	.52	.90		.01
Boilermakers	12.80	1.05	1.00		.02
Bricklayers & Stonemasons	9.55	.45	.45		.01
Carpenters (York County)	9.29	.35	.40		.03
Carpenters (Adams County)	10.14	.40	.50		.03
Cement masons (Adams County)	9.385	.50	.40		
Cement masons (York County)	10.035	.55	.40		.01
Electricians	10.25	.45	3%+.15		.01
Elevator Constructors	10.20	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	7.14	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	4.93				
Ironworkers	11.28	.84	1.36		.03
Laborers:					
General laborers	6.70	.40	.45		
Operators of jackhammer (etc.)	6.90	.40	.45		
Wagon drill (etc.)	7.00	.40	.45		
Handling of all materials (etc.)	6.85	.40	.45		
Laborers assisting tile (etc.)	6.75	.40	.45		
Handling & using dynamite	7.03	.40	.45		
Caisson work (top men)	6.95	.40	.45		
Caisson work (bottom men)	7.15	.40	.45		
Mixer man	7.10	.40	.45		
Line Construction:					
Linemen, cable splicers	10.81	.40	3%		3/8%
Winch truck operators	7.54	.40	3%		3/8%
Groundman	6.45	.40	3%		3/8%
Marble, tile & terrazzo workers	8.20	.45	.45		
Millwrights (Adams County)	11.29	.40	.50		.03
Millwrights (York County)	9.79	.35	.40		.03
Painters:					
Brush	7.35	.35	.15		
Steel & Spray	7.90	.35	.15		
Piledrivermen	10.77	2.13	1.30	c	.12
Plasterers (York County	8.60	.35	.25		.01
Plasterers (Adams County)	9.25	.55	.40		.01
Plumbers	10.85	.30	.65		.12
Roofers:					
Composition	8.55	.45	.20	.25	
Slate & tile	9.15	.45	.20	.25	
Sheet metal workers	$10.05	1.39	1.18		.05
Soft floor layers:					
Adams County	8.88	.40	.50		.03
York County	9.69	.35	.40		.03
Sprinkler fitters	11.86	.65	.95		.08
Steamfitters	10.85	.30	.65		.12
Welders - Receive rate for craft					

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F.

c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans's Day; Thanksgiving Day.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr
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 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Northumberland
DECISION NO.: PA77-3129 DATE: Date of Publication
Supersedeas Decision No. PA77-3049, dated April 22, 1977, in 42FR 21043.
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			
		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	9.50	.55	.65		
Carpenters	10.14	.40	.50		.03
Cement masons	10.10				.01
Electricians:					
Delaware, Lewis & Trubut	9.48	.50	3%+.60	.60	.02
Remainder of County	10.95	.35	3%		.05
Glaziers:					
Edgewell, Ralph, Knulpmont, Coal, Marion Heights Twps:	8.89	.40	.30		.01
Remainder of County	9.39	.40	.40		.01
Ironworkers	11.28	.84	1.36		.03
Laborers:					
North of Susquehanna River	7.20	.40	.35		
South of Susquehanna River	7.55	.30	.35		
Lathers	9.01	.25	.25		.01
Marble & Tile Setters	9.50		.50		
Painters:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Piledrivermen	10.77	2.13	1.30	a	.12
Roofers:					
Coal, East Cameron, Jackson, Jordan, Little Mahony, Lower Augusta, Upper Mahony, Point Rockfeller, Shamokin, Upper Mahony, Washington, West Cameron, Zerbe Composition	9.71	.60	.55		
Remainder of County Composition	9.65	.85	.80		
Plumbers	10.85	.30	.65		.12
Steamfitters	10.85	.30	.65		.12
Sprinkler fitters	11.86	.65	.95		.08
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	8.88	.40	.50		.03
Millwrights	11.29	.40	50		.03
Welders: Receive rate for craft					

FOOTNOTE:

a. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
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 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, 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

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Washington, D. C. DATE: Date of Publication
DECISION NO.: DC77-3108
SUPERSEDES DECISION NO. DC77-3049, dated March 18, 1977, in 42 FR 15293
DESCRIPTION OF WORK: Building Construction, Heavy Construction (including Washington Metropolitan Area Transit Authority - Rapid Rail System), Sewer and Water Lines (excluding all residential construction)

BUILDING AND HEAVY CONSTRUCTION (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.92	.59	.89		.03
BOILERMAKERS - BLACKSMITHS	9.40	.60	.90		.02
BRICKLAYERS	11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS:					
Cement masons	10.50	.805	.60		.11
Grinding machine	10.75	.805	.60		.11
DIVERS	18.125	.50	.49		.07
DIVER TENDER	10.75	.50	.49		.07
ELECTRICIANS	11.40	.65	1%+.80		.13
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	10.53	.61	.50		.05
IRONWORKERS:					
Structural, ornamental and chain link fence	10.40	.87	.80		.05
Reinforcing	10.80	.62	.95		.03
LABORERS (EXCLUDING WMATA RAPID RAIL TRANSIT SYSTEM)					
Common laborers, landscapers	8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, townasters, buggy mobiles, spaders, mortar men and scootcretes	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Plasterers' tenders	7.03	.32	.35		.05
Plumbers' laborers	6.93	.30	.40		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
LATHERS	10.36	.50	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01
CARPET LAYERS	7.05	.30			.05

BUILDING AND HEAVY CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	$12.41	.45	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.53	.45	3%		½ of 1%
Groundmen (0 to 1 year)	6.11	.45	3%		½ of 1%
Groundmen (1 to 2 years)	7.02	.45	3%		½ of 1%
Groundmen (over 2 years)	7.27	.45	3%		½ of 1%
MARBLE SETTERS	11.60	.80	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	10.94	.80	.60		.05
PAINTERS:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
PILEDRIVERMEN	10.68	.80	.60		.05
PLASTERERS	10.15	.55	.65		.06
PLUMBERS	11.12	1.00	1.00		.27
ROOFERS:					
Composition	9.57	.56	.30		
Slate, tile mopmen, waterproofers, sprayers, sprandrel and ironite	10.13	.56	.30		
Helpers	6.79	.56	.30		
SHEET METAL WORKERS	11.14	1.07	1.21		.14
SOFT FLOOR LAYERS	10.45	.80	.60		.05
SPRINKLER FITTERS	11.70	.65	.95		.08
STEAMFITTERS, Refrigeration and air conditioning mechanic	11.48	.75	1.00		.16
STONE MASONS	11.60	.80	.65		.07
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental carvers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	

BUILDING AND HEAVY CONSTRUCTION CONT'D: (INCLUDING WMATA)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO AND MOSAIC WORKERS	10.68	.60	.60		
TERRAZZO WORKERS' HELPERS	9.70	.50	.40		
TILE SETTERS	10.68	.60	.40		
TILE SETTERS' HELPERS	9.30	.50	.40		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, pick-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing operations to which rigging and welding are incidental.					

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of 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. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F(provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and a minimum of 1450 hours during any calendar year.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
GROUP I	$8.46	.60	.45		.05
GROUP II	8.61	.60	.45		.05
GROUP III	8.66	.60	.45		.05
GROUP IV	8.71	.60	.45		.05
GROUP V	8.91	.60	.45		.05
GROUP VI	9.11	.60	.45		.05
GROUP VII	9.235	.60	.45		.05
GROUP VIII	9.635	.60	.45		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller helper, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys, tool room men

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, townmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosive enamel or equal, paving breaker and jackhammer operators

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, joiner, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzleman and potman

GROUP VI - Powderman, master form setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hastings block or similar type)

GROUP VIII - Miners

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$8.735	.50	.40		.05
GROUP II	9.035	.50	.40		.05
GROUP III	9.685	.50	.40		.05
GROUP IV	9.935	.50	.40		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I

Brakeman, bull gang, dumper, trackman, concrete man

GROUP II

Chuck tender, powderman in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' helpers

GROUP III

Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman.

GROUP IV

Mucking machine operator (air)

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY - RAPID RAIL TRANSIT SYSTEM ONLY

COMPRESSED AIR RATES		Rates Paid Daily	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gauge Pressure Pounds	Work Period Hours					
1-14	7	$91.26	a	b		c
14-18	6	94.60	a	b		c
18-22	5-1/2	97.89	a	b		c
22-26	5	101.28	a	b		c
26-32	4	104.61	a	b		c
32-38	3	107.91	a	b		c
38-44	2-1/2	119.29	a	b		c

Footnotes:
a. The employer pays $4.80 to health and welfare per day.

b. The employer pays $3.60 to Pension per day.

c. The employer pay $.40 to training fund per day.

(INCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	$11.80	.55	.55		.12
GROUP II	11.50	.55	.55		.12
GROUP III	11.40	.55	.55		.12
GROUP IV	11.22	.55	.55		.12
GROUP V	11.17	.55	.55		.12
GROUP VI	11.15	.55	.55		.12
GROUP VII	11.14	.55	.55		.12
GROUP VIII	10.97	.55	.55		.12
GROUP IX	10.95	.55	.55		.12
GROUP X	10.75	.55	.55		.12
GROUP XI	10.27	.55	.55		.12
GROUP XII	10.09	.55	.55		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower and climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving mixers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd. struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. or more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

GROUP VIII - Concrete mixer, tunnel motorman

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D)

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

PAVING AND INCIDENTAL GRADING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr Tr.
Asphalt Shoveler	$7.05	.27	.35		
Asphalt Raker	7.25	.27	.35		
Asphalt Tamper	7.15	.27	.35		
Bricklayers	11.65	.80	.70		.10
Carpenters	10.45	.80	.60		.05
Cement Masons	7.50	.27	.35		
Concrete Saw Operator	7.25	.27	.35		
Concrete Shoveler	7.15	.27	.35		
Form Setter	7.50	.27	.35		
Laborers:					
Laborers	7.00	.27	.35		
Jackhammer	7.20	.27	.35		
Hand Burner Operator	7.15	.27	.35		
Power Equipment Operators:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor, Rubber-tired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.25	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.45	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	7.50	.27	.35		
Crane Operator, Concrete Paving Operator	7.65	.27	.35		
Shovel Operator	7.75	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Loader Operator Tracks (over 2-½ cu. yds	8.40	.27	.35		
G-1000 Gradall Operator (over 1½ cu. yds.)	8.65	.27	.35		
Power Broom, Oiler	7.15	.27	.35		
Sand Setter	7.45	.27	.35		
Truck Drivers:					
Truck Drivers (standard)	7.00	.27	.35		
Tandem	7.12	.27	.35		
Tractor trailer (capable of moving heavy equipment)	7.50	.27	.35		

DECISION NO.: DC77-3108

(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

SEWER AND WATER LINES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$11.65	.80	.70		.10
CARPENTERS	10.45	.80	.60		.05
CEMENT MASONS	10.50	.805	.60		.11
IRONWORKERS; Reinforcing	10.80	.62	.95		.03
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.78	.28	.25		.03
Timbermen, sheeting-men, shoring-men, caulkers, pipelayers helpers	5.93	.28	.25		.03
Bottom man	5.83	.28	.25		.03
Wagon drillers, air track drillers	6.13	.28	.25		.03
Pipelayers	6.13	.28	.25		.03
Rock drillers	5.88	.28	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.28	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cablemen, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' helpers	6.715	.28	.25		.03
Miners, rodmen, re-bar underground, concrete or gunite nozzlemen, powermen, timbermen and retimberman wood or steel including liner plate or any other support material, motorman, caulkers, diamond drill riggers, cement finishers (underground), welders and burners, shield driver	7.365	.28	.25		.03
Mucking machine operator (air)	7.615	.28	.25		.03

DECISION NO.: DC77-3108

(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

SEWER AND WATER LINES CONT'D.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMPRESSED AIR: (All rates per day)					
Gauge Pressure Pounds / Work Period					
From 1 to 14 / 7 hours	72.74	a	b		.03
From 14 to 18 / 6 hours	76.08	a	b		.03
From 18 to 22 / 5⅓ hours	79.41	a	b		.03
From 22 to 26 / 5 hours	82.76	a	b		.03
From 26 to 32 / 4 hours	86.09	a	b		.03
From 32 to 38 / 3 hours	89.44	a	b		.03
From 38 to 44 / 2⅔ hours	92.77	a	b		.03
PILEDRIVERMEN	10.68	.80	.60		.05
PLUMBERS	11.12	1.00	1.00		.27
POWER EQUIPMENT OPERATORS:					
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd. and over	8.19	.35	.35		.05
Backhoes, cableways, cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, pile-driving engines, batch plants concrete pumps	7.94	.35	.35		.05
Trenching machines (above 8' 3")	7.74	.35	.35		.05
Backhoes (hydraulic, under ¾ c.y.)	7.82	.35	.35		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines	7.64	.35	.35		.05
Air compressors, tunnel	7.61	.35	.35		.05
Front end loaders (high lift), bulldozers	7.59	.35	.35		.05
Concrete mixers, power sheel scoops and scrapers, motor graders, tunnel motor men, blade graders, tunnel mechanics	7.49	.35	.35		.05

DECISION NO.: DC77-3106

(EXCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)

SEWER AND WATER LINES CONT'D.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mechanics	$7.47	.35	.35		.05
Bulldozer, hydraulic tampers	7.39	.35	.35		.05
Roller	7.29	.35	.35		.05
Air compressors, pump, welding machine well points	7.215	.35	.35		.05
Apprentice engineers:					
Firemen	6.75	.35	.35		.05
Truck crane oilers	6.60	.35	.35		.05
Oilers	6.55	.35	.35		.05
TRUCK DRIVERS:					
Dump trucks	6.10	.45	c		
Dump trucks over 8 wheels	6.20	.45	c		
Flat trucks	6.20	.45	c		
Trailers	6.45	.45	c		
Fuel and oil trucks	6.10	.45	c		
Euclids	6.60	.45	c		

FOOTNOTES:

a. Employer contributes $2.24 per day to Health and Welfare.

b. Employer contributes $2.00 per day to Pension.

c. $10.00 per week when employee has worked 90 days and work three days in any work week.

[FR Doc.77-26689 Filed 9-15-77;8:45 am]

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