

Federal Register

FRIDAY, NOVEMBER 3, 1978



highlights

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HEW/OE announces intent to amend its regulations on assistance to areas affected by Federal activities (2 documents) 51431

EDUCATION AMENDMENT OF 1978

HEW/OE publishes notices of intent to develop regulations for the Indian education program, preschool partnership program, and the program for the gifted and talented (3 documents) 51431, 51432

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Labor/FCCPO publishes correction to its document of 10-20-78 in order to further reflect the consolidation authorized by Executive Order 12086; effective 11-3-78 **51399**

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NCUA proposes rules which will authorize Federal credit unions to invest in, make loans to, or extend lines of credit to organizations providing services which are apart of routine operations; comments by 1-2-79 **51407**

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HEW/DA issues notice of availability on revised proposal; comments by 2-1-79 **51450**

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: November 1, 1978]

S. 3112	Pub. L. 95-548
To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building. (Oct. 30, 1978; 92 Stat. 2064) Price: \$.60	

H.R. 12509	Pub. L. 95-549
To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes. (Oct. 30, 1978; 92 Stat. 2065) Price: \$.60	

S. 1403	Pub. L. 95-550
To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico. (Oct. 30, 1978; 92 Stat. 2067) Price: \$.60	

H.R. 13416	Pub. L. 95-551
To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes. (Oct. 30, 1978; 92 Stat. 2069) Price: \$.60	

H.R. 13372	Pub. L. 95-552
To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes. (Oct. 30, 1978; 92 Stat. 2071) Price: \$.60	

S. 3551	Pub. L. 95-553
To make technical corrections in the North Pacific Fisheries Act of 1954. (Oct. 30, 1978; 92 Stat. 2072) Price: \$.60	

S. 3189	Pub. L. 95-554
To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes. (Oct. 30, 1978; 92 Stat. 2073) Price: \$.60	

S. 995	Pub. L. 95-555
To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy. (Oct. 31, 1978; 92 Stat. 2076) Price: \$.60	

H.R. 13702	Pub. L. 95-556
To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes. (Oct. 31, 1978; 92 Stat. 2078) Price: \$.60	

S. 3084	Pub. L. 95-557
Housing and Community Development Amendments of 1978 (Oct. 31, 1978; 92 Stat. 2080) Price: \$1.80	

S. 3595	Pub. L. 95-558
To amend section 202(d) of the Magnuson-Moss Warranty Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures (Nov. 1, 1978; 92 Stat. 2130) Price: \$.60	

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[3195-01-M]

Title 3—The President

Executive Order 12091

November 1, 1978

Small Business Conference Commission

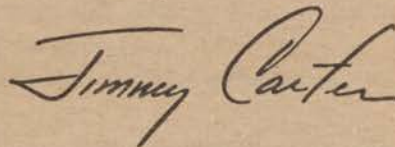
By the authority vested in me as President by the Constitution of the United States of America, and in order to increase the membership and alter the functions of the Small Business Conference Commission, it is hereby ordered that Sections 1-101, 1-201, 1-204 and 1-402 of Executive Order No. 12061 of May 18, 1978, are amended to read as follows:

"1-101. There is established a Small Business Conference Commission. The Commission shall be composed of eleven members."

"1-201. The Commission shall provide advice with respect to the holding of a White House Conference on Small Business to be held in early 1980."

"1-204. Prior to the White House Conference on Small Business, the Administrator of the Small Business Administration shall hold open regional and local meetings or conferences. These open meetings shall seek to identify the specific issues which should be addressed at the Conference and shall solicit candidates for Conference delegates. The Commission shall review the issues addressed at these regional and local meetings.", and

"1-402. The Commission shall terminate on April 30, 1980, or 60 days after the conclusion of the White House Conference on Small Business, whichever is sooner."



THE WHITE HOUSE,
November 1, 1978.

[FR Doc. 78-31326 Filed 11-1-78; 4:43 pm]

[3195-01-M]

Executive Order 12092

November 1, 1978

Prohibition Against Inflationary Procurement Practices

By the authority vested in me as President and as Commander in Chief of the Armed Forces by the Constitution and statutes of the United States of America, including Sections 2(c) and 3(a) of the Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904 note) and Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and in order to encourage noninflationary pay and price behavior by private industry and labor, and to provide for the procurement by Executive agencies and Military Departments of personal property and services at prices and wage rates which are noninflationary, it is hereby ordered as follows:

1-101. The Chairman of the Council on Wage and Price Stability shall:

(a) Monitor company pay and price practices in order to determine compliance with the standards set forth in Section 1-102 of this Order;

(b) Promulgate regulations and guidance to further define these standards, and provide for appropriate exemptions and exceptions;

(c) Publish, or cause to be published, in accordance with procedures designed to ensure fairness and due process, the names of individuals or companies which are not in compliance with the standards;

(d) Promulgate procedures to be used in proceedings before the Council on matters pertaining to the standards, and take such other action as may be necessary and consistent with the purposes of this Section.

1-102. Noninflationary wage and price behavior shall be measured by the following standards:

(a) For prices, noninflationary price behavior is the deceleration by companies of their current rate of average price increase by at least 0.5 percentage points from their historical rate of annual price increase during 1976-1977 except where profits have not increased.

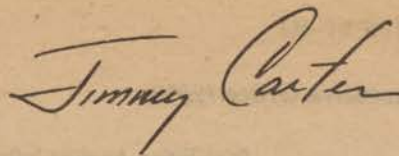
(b) For pay, noninflationary pay behavior is the holding of pay increases to not more than 7 percent annually above their recent historical levels.

(c) These standards, which shall be further defined by the Chairman of the Council on Wage and Price Stability, shall be subject to certain limitations and exemptions as determined by the Chairman.

1-103. In order to ensure economy and efficiency in government procurement, the head of each Executive agency and Military Department shall ensure that their contracts incorporate, on and after January 1, 1979, a clause which requires compliance by the contractor, and by his subcontractors and suppliers, with the standards set forth in Section 1-102 of this Order.

1-104. Each Executive agency and each Military Department shall comply with the directions of the Administrator for Federal Procurement Policy, who, in accord with Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), shall be responsible for the overall direction of the implementa-

tion of Section 1-103 including the issuance of regulations and procedures for determining exceptions and granting exemptions.



THE WHITE HOUSE,
November 1, 1978.

[FR Doc. 78-31327 Filed 11-1-78; 4:49 pm]

[3195-01-M]

Executive Order 12093

November 1, 1978

President's Commission on the Holocaust

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to create, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), an advisory committee on the establishment of a memorial to the victims of the Holocaust, it is hereby ordered as follows:

1-1. *Establishment and Membership.*

1-101. There is established the President's Commission on the Holocaust.

1-102. The Commission shall consist of not more than thirty-four members as follows:

(a) The President shall appoint twenty-four members of the Commission and shall designate one of these members to chair the Commission.

(b) The Speaker of the House of Representatives and the President of the Senate are each invited to designate five members of their respective Houses to serve as members of the Commission.

1-2. *Functions of the Commission.*

1-201. The Commission shall submit a report to the President and the Secretary of the Interior containing its recommendations with respect to the establishment and maintenance of an appropriate memorial to those who perished in the Holocaust.

1-202. The Commission's report shall examine the feasibility of obtaining funds for creation and maintenance of the Memorial through contributions by the American people.

1-203. The Commission shall recommend appropriate ways for the nation to commemorate April 28 and 29, 1979, which the Congress has resolved shall be "Days of Remembrance of Victims of the Holocaust."

1-3. *Administrative Provisions.*

1-301. To the extent permitted by law, the Secretary of the Interior shall provide all necessary administrative services, facilities, support, and funds necessary for the performance of the Commission's functions.

1-302. Each member of the Commission who is not otherwise employed in the Government may receive compensation for each day such member is engaged in the work of the Commission at a daily rate to be determined by the Secretary of the Interior. Such rate shall not exceed that payable pursuant to the Federal Advisory Committee Act.

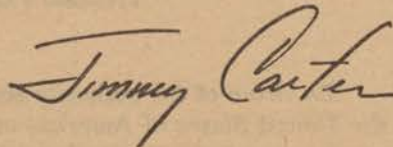
1-303. Members of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons in the Government service employed intermittently.

1-304. The functions of the President under the Federal Advisory Committee Act which are applicable to the Commission, except that of reporting to the Congress, shall be performed by the Secretary of the Interior in accordance with guidelines and procedures prescribed by the Administrator of General Services.

1-4. *Final Report and Termination.*

1-401. The Commission shall submit its final report to the President and the Secretary of the Interior not later than six months from the date of its first meeting.

1-402. The Commission shall terminate not later than thirty days after submitting its final report.



THE WHITE HOUSE,
November 1, 1978.

[FR Doc. 78-31328 Filed 11-1-78; 4:50 pm]

[3195-01-M]

Executive Order 12094

November 1, 1978

Special Pay for Sea Duty

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States of America by sections 305, 305a and 403 of title 37 of the United States Code and in order to implement increased rates of special pay for enlisted personnel serving on sea duty, it is hereby ordered as follows:

1-101. Executive Order No. 11157, as amended, is further amended by revising Part II thereof to read as follows:

"PART II—SPECIAL PAY FOR SEA DUTY AND DUTY AT CERTAIN PLACES

"Sec. 201. Provided they have over three cumulative years of sea duty, enlisted members of a uniformed service who are in pay grade E-4 or above and who are entitled to receive basic pay shall be entitled to receive, additionally, career sea pay while on sea duty. The period of sea duty shall include the date of reporting and the date of detachment as stated in orders. Career sea pay shall be at the rates prescribed in section 305a of title 37, United States Code.

"Sec. 202. (a) For the purpose of entitlement to career sea pay, the term "sea duty" shall mean duty performed by enlisted members:

"(1) while permanently assigned for duty to a vessel, ship-based staff, or ship-based aviation unit pursuant to orders issued by competent authority and serving in a ship whose primary mission is accomplished underway, including—

"i. periods not to exceed the first 30 consecutive days of temporary additional duty ashore; and

"ii. periods not to exceed the first 90 days during which messing or berthing facilities, or both, are temporarily out of service in order to permit alterations or repairs.

"(2) while temporarily assigned for duty to a vessel, ship-based staff, or ship-based aviation unit pursuant to orders issued by competent authority and serving in a ship whose primary mission is accomplished underway. The period of service shall include periods not to exceed the first 30 consecutive days of further temporary additional duty ashore from the ship.

"(3) while permanently or temporarily assigned for duty to a vessel or ship-based staff pursuant to orders issued by competent authority and serving in a ship whose primary mission is accomplished in port, but only during periods while the ship is away from its home port for at least 30 consecutive days.

"(b) For the purpose of this section, the word "vessel" or "ship" shall mean a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities.

"Sec. 203. The Secretaries concerned (within the meaning of section 101(5) of title 37, United States Code) with respect to personnel of the uniformed service within their respective departments, are hereby authorized

they may deem necessary or desirable for carrying out the provisions of sections 305 and 305a of title 37 and this Executive Order. Such regulations shall be uniform for all the services to the fullest extent possible.

"Sec. 204. Enlisted members entitled to receive basic pay shall be entitled to receive, additionally, pay at the rates prescribed by section 305(a) of title 37 of the United States Code while on duty at places that are outside the 48 contiguous States and the District of Columbia and that are designated for this purpose by the Secretary of Defense or, in the case of enlisted members of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation. Subject to provisions of section 305 of title 37 of the United States Code, an enlisted member who is permanently assigned to duty at a place so designated is entitled to receive that pay during a period of authorized leave, temporary additional duty, temporary duty, or hospitalization or while on an operational aircraft flight, but not more than 30 days while he is away from that place. Enlisted members shall be entitled to special pay under this section when attached to ships undergoing repair and overhaul in designated foreign-duty areas for extended periods when entitlement to special pay for sea duty has been terminated. Such enlisted members shall be entitled to special pay for sea duty under the same conditions as an enlisted member on temporary additional duty or temporary duty in that designated foreign-duty area.

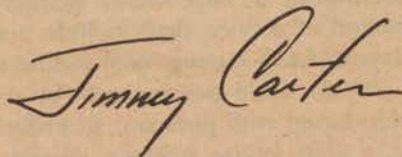
"Sec. 205. Unless otherwise entitled to special pay in accord with the second sentence of section 204 hereof, during periods spent on temporary additional duty or temporary duty or on operational aircraft flights, pay in accord with section 204 shall accrue to enlisted members only for periods of eight continuous days or more in duration at one or more places designated, including the dates of arrival at and the dates of departure from those places.

"Sec. 206. (a) No enlisted member shall be entitled under this order to receive both career sea pay and pay for duty prescribed in sections 204 and 205 hereof for the same period of time.

"(b) No enlisted member shall be entitled to receive career sea pay while in receipt of monetary allowance in lieu of rations, except during a period when messing facilities are temporarily out of operation to permit alterations or repairs not to exceed 90 days, provided such member is not authorized leave during such period."

1-102. Executive Order No. 11157, as amended, is further amended by revising section 401(c) thereof to read as follows:

"(c) The term "sea duty" shall mean service performed by either an officer or enlisted member in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities."



THE WHITE HOUSE,
November 1, 1978.

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.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

ACTION; Correction

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: In the schedule C document for ACTION on page 39952 of the FEDERAL REGISTER of September 8, 1978, the effective date of the amendments was incorrectly given as July 7, 1978; it should be September 13, 1978.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

(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. 78-30847 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C a position at the Department of Agriculture because it is confidential in nature. Appointments may be made to this position without examination by the Civil Service Commission.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3313(a)(6) is added:

§ 213.3313 Department of Agriculture.

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

(6) One Coordinator, Human Nutrition Activities 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. 78-30952 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce, Department of Energy National Transportation Safety Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Commerce, Department of Energy, and National Transportation Safety Board because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATES: Department of Commerce—August 14, 1978; Department of Energy—September 6, 1978; National Transportation Safety Board—August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3314(r)(10) is amended and 213.3331(o)(5) and 213.3396(b)(1) are added as set out below:

§ 213.3314 Department of Commerce.

* * *

(r) *National Oceanic and Atmospheric Administration.* * * *

(10) One Private Secretary and two Confidential Assistants to the Associate Administrator.

* * *

§ 213.3331 Department of Energy.

* * *

(c) *Office of the Assistant Secretary for Policy and Evaluation.* * * *

(5) One Confidential Assistant (Secretary) to the Deputy Assistant Secretary for Policy and Evaluation.

* * *

§ 213.3396 National Transportation Safety Board.

* * *

(b) *Office of the Managing Director.*
(1) One Secretary (Steno) to the Managing 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. 78-30848 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment increases the number of positions to 20 and the period of employment to 5 years under schedule B for positions of professor in the National Defense University. These positions are excepted under schedule B because competitive examination for them is impracticable. This amendment also transfers the authority for these positions from Department of the Army to Department of Defense to reflect the correct organizational location of NDU.

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3206(c) is added and 5 CFR 213.3207(b) is revoked, as follows:

§ 213.3206 Department of Defense.

(c) *National Defense University.*

(1) Twenty positions of professor, GS-13/15, for employment of any individual not to exceed 5 years.

§ 213.3207 Department of the Army.

(b) [Revoked].

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc. 78-30849 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, Veterans Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Defense and the Veterans Administration because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(98) and 213.3327(a)(7) are amended as set out below:

§ 213.3306 Department of Defense.

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

(98) Three Special Assistants to the Deputy Assistant Secretary (Policy Plans and NSC Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

§ 213.3327 Veterans Administration.

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

(7) Seven Confidential Assistants to the Executive Assistant to the 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. 78-30953 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the U.S., National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Export-Import Bank of the United States and National Foundation on the Arts and the Humanities because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATES: Export-Import Bank of the United States—September 21, 1978; National Foundation on the Arts and the Humanities—September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3342(j) and 213.3382(y) are added as set out below:

§ 213.3342 Export-Import Bank of the U.S.

(j) One Secretary (Steno) to the Personal and Confidential Assistant to the President and Chairman.

§ 213.3382 National Foundation on the Arts and the Humanities.

(y) One Intergovernmental Activities Specialist to the Deputy Chairman for Intergovernmental Activities, National Endowment for the Arts.

(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. 78-30954 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Federal Mine Safety and Health Review Commission, Department of Health, Education and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Federal Mine Safety and Health Review Commission, and the Department of Health, Education, and Welfare because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3351(b) and 213.3316(c)(22) are added as set out below:

§ 213.3351 Federal Mine Safety and Health Review Commission.

(b) One Confidential Secretary to the Chairman and one Confidential Secretary to each of four Commissioners.

§ 213.3316 Department of Health, Education, and Welfare.

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

(22) One Assistant Commissioner for Private Education Services.

(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. 78-30851 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

General Services Administration, Federal Mine Safety and Health Review Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at

the General Services Administration and the Federal Mine Safety and Health Review Commission because they are confidential in nature. Appointments may be made without examination by the Civil Service Commission.

EFFECTIVE DATES: General Services Administration—October 11, 1978; Federal Mine Safety and Health Review Commission—October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3337(a)(9) and 213.3351 are added as set out below:

§ 213.3337 General Service Administration.

(a) *Office of the Administrator.* * * *
(9) One Confidential Assistant to each of ten Regional Administrators.

§ 213.3351 Federal Mine Safety and Health Review Commission.

(a) Five Attorney-Advisors (General) to the Commission.

(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. 78-30850 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

International Communications Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C one position of International Athletic Exchange Officer, International Communications Agency. Appointment may be made to this position without examination by the Civil Service Commission.

EFFECTIVE DATE: August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3328(f) is added as set out below:

§ 213.3328 International Communication Agency.

(f) One International Athletic Exchange Officer.

(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. 78-30955 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule B until September 30, 1980, one position of Humanist Administrator in the Publications Program, Division of Research Grants, National Endowment for the Humanities because competitive examination for this position is impracticable.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James Edman, 202-632-4533.

Accordingly 5 CFR 213.3282(b)(23) is added as follows:

§ 213.3282 National Foundation on the Arts and the Humanities.

(b) *National Endowment for the Humanities.* * * *

(23) Until September 30, 1980, one position of Humanist Administrator, Publications Program, Division of Research Grants.

(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. 78-30852 Filed 11-2-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the excepted schedule C position of Associate Administrator

for Policy Development and Review, Federal Aviation Administration, Department of Transportation to Associate Administrator for Policy and International Aviation Affairs, Policy and International Aviation Affairs, Federal Aviation Administration, Department of Transportation.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION:

On position authority contact: Dean Bollman, Civil Service Commission, 202-632-7676.

On position content contact: Thomas M. McKenna, Chief, Executive Staffing Branch, Department of Transportation, 202-426-4122.

Accordingly, 5 CFR 213.3394(h)(9) is amended as set out below:

§ 213.3394 Department of Transportation.

(h) *Federal Aviation Administration.* * * *

(9) Associate Administrator for Policy and International Aviation Affairs.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30886 Filed 11-2-78; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Notice of Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes the shipping requirement for supply plants during October and November 1978 for the Chicago Regional marketing area as a means of maintaining the pool status of producers who regularly supply the market and of preventing uneconomic shipments of milk. The revisions are made in response to requests of cooperative associations of producers supplying the market.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Proposed Temporary Revision of shipping percentage, issued October 18, 1978; published October 23, 1978 (43 FR 49310).

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the Chicago Regional milk order.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 49310) concerning a proposed decrease in the shipping requirement for supply plants for the months of October and November 1978. Interested parties were afforded an opportunity to comment on the proposal at a meeting called by the market administrator of the Chicago Regional order at the request of the Director of the Dairy Division and held at Madison, Wisconsin, on October 20, 1978. Also, parties were afforded an opportunity to file written data, views and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views and arguments filed thereon, and other available information, it is hereby found and determined that for the months of October and November 1978 the supply plant shipping percentage of 35 percent set forth in § 1030.7(b) should be decreased to 30 percent.

Pursuant to the provisions of § 1030.7(b)(5) the supply plant shipping percentages set forth in § 1030.7(b) may be increased or decreased by the Director of the Dairy Division by up to 10 percentage points during the months of August-March, if necessary to obtain needed shipments or to prevent uneconomic shipments.

Central Milk Sales Agency (CMSA), a group of seven cooperatives that supply about half of the producer milk associated with the Chicago Regional market requested that the Director of the Dairy Division reduce the supply plant shipping percentage for the months of October and November 1978. CMSA states that a reduction of 5 percentage points in the supply plant shipping percentage is necessary to prevent uneconomic shipments of milk during those months. Also, the prospect is that without the proposed

reduction, a substantial volume of milk of producers who have regularly supplied the market could not qualify for pooling under the order.

Collectively, 44 supply plants are qualified for pooling under the Chicago Regional order each month by shipments dispatched by CMSA. Thirty-one of the plants are operated by the members of CMSA and are qualified for pooling under the unit pooling provisions of the order. The remaining 13 plants are operated by individual proprietors and are qualified individually.

Producer milk receipts of CMSA were 384.9 million pounds in September 1978. It is estimated that producer milk receipts for October will increase by 5 million pounds. Normally, CMSA would ship to pool distributing plants the 1.75 million pounds needed to qualify the additional quantity for pooling. However, unforeseen conditions developed during the month of October that provided the basis for requesting that the supply plant shipping percentages be lowered.

Out-of-area sales which have contributed to supply plant qualification were down substantially in October and are expected to remain relatively low during November. Also, certain changes in the operations of some Order 30 pool distributing plants have resulted in a substantial reduction in normal qualifying shipments to the plants from CMSA supply plants.

Total qualifying sales in September were 133 million pounds. As a result of projected sales that have not materialized, it is estimated that qualifying sales for October will be about 127 million pounds. The maximum volume that may be qualified with this volume of sales under the 35 percent shipping requirement for October is 362.8 million pounds. Yet, it is expected that CMSA will have about 389 million pounds of producer milk for the month. To meet the qualifying percentage, about 27 million pounds of producer milk would have to be depooled.

There is no prospect for improvement in these marketing conditions for November. The combined effect of increased producer receipts and decreased sales for November would require CMSA to depool about 24 million pounds, or subject it to energy-wasting and uneconomic movements during the month to keep it pooled.

Other cooperative associations and certain proprietary handlers in the market expressed support for a relaxation of the supply plant shipping percentage for October and November 1978 to prevent uneconomic shipments and to maintain pool status for producers who have regularly supplied milk to the market.

A cooperative opposed the reduction in the shipping percentages primarily

on the grounds that Class I sales in September 1978 were 1.2 percent higher than in September 1977. The opponent claimed that CMSA had provided no explanation as to why Class I sales might suddenly be expected to decline. We cannot agree with this view. Information provided by the market administrator indicates that pooled Class I milk for September 1978 was 2.57 million pounds less than for September 1977. Also, proponents indicated that a combination of higher milk production and lower Class I sales through CMSA supply plants would cause the depooling of 27 million pounds of milk for October 1978 unless the shipping percentages are reduced.

Also, we cannot agree with the opposing cooperative's claim that the temporary revision for October will create disorderly marketing. This claim was based on the possibility that the temporary revision might be made effective earlier in October. As it is, the revision for October will prevent the depooling of milk and should have no other impact on marketing conditions for October.

A proprietary supply plant and a trade association of proprietary plants opposed the reduction for October on the grounds that some supply plants have already met the 35 percent shipping requirement for the month. While this may be the case, the chief consideration in this proceeding is whether a relatively large volume of producer milk should be depooled for October as a result of sales conditions that were not foreseen at the beginning of the month.

Some proprietary handlers oppose any relaxation of the supply plant shipping requirements, but the reasons given are not persuasive. Primarily, the opposition was directed against the pooling provisions that are provided in the order. However, this proceeding does not deal with an amendment of the provisions. It involves only a two-month revision of them.

The comments of some proprietary handlers were directed against Federal milk regulation generally, and certain marketing practices of cooperatives that are not related to the order. These comments do not have a direct bearing on the proposed temporary revision of the supply plant shipping percentages.

Another handler, who claimed that a relaxation of the shipping percentage would jeopardize a supply of milk for his firm, actually has a number of supply plants under the control of the firm from which substantial quantities of milk can be drawn. The stated preference of the handler is to obtain a supply of milk from other supply plants. Apparently, the retention of the higher shipping percentage, as de-

sired by the handler, would accommodate this practice.

The potential depooling of a substantial quantity of milk for October and the uneconomic movement of it in November to maintain pooling is an overriding consideration in this proceeding. It is concluded that it is necessary to reduce the pool supply plant shipping percentage for the months of October and November 1978.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of October and November 1978;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of October and November 1978.

It is therefore ordered, That the aforesaid provisions of the order are hereby revised for October and November 1978.

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

Effective date: November 1, 1978.

Signed at Washington D.C., on October 31, 1978.

HERBERT L. FOREST,
Director, Dairy Division.

[FR Doc. 78-31175 Filed 10-31-78; 8:45 am]

[3410-07-M]

**CHAPTER XVIII—FARMERS HOME
ADMINISTRATION, DEPARTMENT
OF AGRICULTURE**

**SUBCHAPTER B—LOANS AND GRANTS
PRIMARILY FOR REAL ESTATE PURPOSES**

**PART 1822—RURAL HOUSING
LOANS AND GRANTS**

[FmHA Instruction 444.1]

**Subpart A—Section 502 Rural Housing
Loan Policies, Procedures, and
Authorizations**

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: FmHA amends its regulations to provide for securing the recapture of any interest credit(s) or subsidy(ies) to be granted borrower(s) by the Government. This action is taken as a result of, and is intended to comply with the Housing and Community Development Amendments of 1978.

DATES: This amendment is effective October 31, 1978. Although this is a final rule, the Agency will accept comments on or before January 2, 1979.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

**FOR FURTHER INFORMATION
CONTACT:**

Mathias J. Felber, 202-447-4295.

SUPPLEMENTARY INFORMATION: A new paragraph (iii) is added to § 1822.15(b)(1) and a new paragraph 12 is added to Exhibit E of Subpart A of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations to provide for securing the recapture of any interest credit(s) granted borrower(s) by the Government on initial and subsequent loans approved after the enactment of the law. These amendments are necessary in order to comply with the Housing and Community Development Amendments of 1978. More detailed regulations pertaining to the method of recapture will be published in the near future. The amendment is not published for prior rulemaking since it implements a mandatory statutory provision and is not a matter of administrative discretion. We do, however, welcome comments and any justified changes will be made, based upon the comments received. Accordingly, § 1822.15(b)(1)(iii) and paragraph 12 of Exhibit E are added as follows:

§ 1822.15 Loan closing actions.

(b) Preparation of note, mortgage and loan closing procedure. ***

(1) Real estate mortgage. ***
(iii) For all initial and subsequent section 502 RH loans, until the mortgages are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage:

This instrument also secures the recapture of any interest credit or subsidy which

may be granted to the borrower(s) by the Government pursuant to 42 U.S.C. 1490a.

EXHIBIT E—INTEREST CREDITS

12. Subsidy Recapture. At the applicant interview, the County Supervisor will advise all section 502 RH applicants that interest credits are subject to recapture. Applicants who receive interest credits will be required to sign, at the time the interest credit agreement is signed, a statement as follows:

"It has been explained to me that one of the conditions for receiving interest credits on my loan is that all such credits are subject to recapture by the Government when the loan account is satisfied by payment in full, is assumed by another person(s), when the property is sold, or when it is no longer occupied by the borrower(s)."

The signed original statement will be placed in position three of the borrower's county office case folder and a copy will be given to the borrower(s).

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 30, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-31201 Filed 11-2-78; 8:45 am]

[3410-37-M]

Title 9—Animals and Animal Products

**CHAPTER III—FOOD SAFETY AND
QUALITY SERVICE (MEAT AND
POULTRY PRODUCTS INSPECTION)
DEPARTMENT OF AGRICULTURE**

**RATE INCREASE FOR INSPECTION
SERVICE**

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The rates for overtime inspection, identification, certification, or laboratory service are changed to reflect the recent Federal pay raise.

EFFECTIVE DATE: November 5, 1978.

**FOR FURTHER INFORMATION
CONTACT:**

June P. Blair, Acting Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C., 202-447-6653.

Pursuant to the statutory authorities cited below, the fees relating to

overtime and holiday inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, Meat and Poultry Inspection program, are hereby amended to reflect increase in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, and Executive Order 12087 dated October 7, 1978, to a level that will more adequately cover the cost of the service provided.

Accordingly, the meat and poultry inspection regulations are amended as set forth below:

§ 307.5 [Amended]

§ 381.38 [Amended]

1. The rate for overtime or holiday inspection, identification, or certification service rendered, as the case may be in accordance with the provisions of this chapter, is changed from \$14.12 per hour to \$14.72 per hour in §§ 307.5(a) and 381.38(a).

2. Section 350.7(c) is amended to read as follows:

§ 350.7 Fees and charges.

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of \$12.60 per hour for base time, \$14.72 per hour for overtime including Saturdays, Sundays, and holidays, and \$22.48 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

3. Section 351.8 is amended to read as follows:

§ 351.8 Charges for surveys of plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of \$12.60 per hour for base time, \$14.72 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government travel regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

4. Section 351.9(a) is amended to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examinations shall be \$12.60 per hour for base time and \$14.72 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14, and \$22.48 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

5. Section 354.101 (b) and (c) are amended to read as follows:

§ 354.101 On a fee basis.

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be \$12.60 for base time and \$14.72 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to the inspection service shall be \$22.48 per hour.

6. Section 355.12 is amended to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be \$12.60 per hour for base time, \$14.72 per hour for overtime, including Saturdays, Sundays, and holidays, and \$22.48 per hour for laboratory service to reimburse the Service for the cost of the inspection service furnished.

7. Section 362.5(c) is amended to read as follows:

§ 362.5 Fees and charges.

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of \$12.60 per hour for base time, \$14.72 per hour for overtime including Saturdays, Sundays, and holidays, and \$22.48 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection as soon as practicable as provided herein. The need for the increase and the amount thereof are de-

pendent upon facts within the knowledge of the Food Safety and Quality Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective sooner than December 4, 1978.

The Department of Agriculture has determined that these regulations do not have major economic consequences requiring preparation of a Regulatory Analysis in accordance with Section 3 of Executive Order 12044 (March 24, 1978).

Done at Washington, D.C., on October 26, 1978.

JOSEPH A. POWERS,
Acting Administrator,
Food Safety and Quality Service.
[FR Doc. 78-31038 Filed 11-2-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4284]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Pelham, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Pelham, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the village of Pelham, Westchester County, N.Y.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Pelham,

Westchester County, N.Y. are available for review at the village hall, Pelham, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the village of Pelham, Westchester County, N.Y.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hutchinson River.	Downstream corporate limits.	14
	ConRail	19
	Hutchinson River Parkway, approximately 700 ft downstream of Lincoln Ave.	26
	Lincoln Ave.	30
	Hutchinson River Parkway, approximately 950 ft upstream of Lincoln Ave.	33
	Cross County Parkway (downstream).	37
	Cross County Parkway (upstream).	45
	Upstream corporate limits.	62
	Highbrook Ave.	49
	Approximately 380 ft upstream of Highbrook Ave.	60
Branch 1, Hutchinson River.	Approximately 540 ft upstream of Highbrook Ave.	70
	Approximately 650 ft upstream of Highbrook Ave.	75

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 960 ft upstream of Highbrook Ave.	79

(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 43 FR 7719).

Issued: October 24, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.
[FR Doc. 78-31025 Filed 11-2-78; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7569]

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

Gain From Sale or Exchange of Depreciable Property Between Related Taxpayers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the treatment of gain from the sale or exchange of depreciable property between certain related taxpayers. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide the public with the guidance needed to comply with that Act and affects certain transferors of depreciable property in sales or exchanges between related taxpayers.

DATES: The regulations are effective for sales or exchanges after October 4, 1976.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T), 202-556-3459.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 31, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1239 of the Internal Revenue Code of 1954 (43 FR 23608). These amendments were proposed to conform the regulations to section 2129 of the Tax Reform Act of 1976 (90 Stat. 1922). Only one comment was received with respect to the proposed amendments, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision subject to one technical change.

EXPLANATION

Section 1239, as amended by the Tax Reform Act of 1976, provides that in the sale or exchange of depreciable property between related persons after October 4, 1976, any gain recognized shall be treated as ordinary income. For purposes of section 1239, "related persons" include a husband and wife, an individual and a corporation at least 80 percent of which is owned by that individual, and two or more corporations 80 percent or more of each of which is owned by the same individual. In addition to conforming the regulations to the changes made by the Tax Reform Act of 1976, the regulations adopted by this Treasury decision provide several rules of construction for applying the general rule of section 1239. In response to a point made in the single comment received with respect to the notice of proposed rulemaking, this Treasury decision makes a technical change to example (2) in § 1.1239-1(c)(3) of the proposed regulations.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations under section 1239 of the Code to changes made by the Tax Reform Act of 1976. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

DRAFTING INFORMATION

The principal author of these regulations is Leonard T. Marcinko 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 and the Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE
REGULATIONS

Accordingly, the amendments to 26 CFR Part 1 published as a notice of proposed rulemaking in the FEDERAL REGISTER for May 31, 1978 (43 FR 23608), are hereby adopted as proposed subject to the following change: The first sentence of example (2) in § 1.1239-1(c)(3) is amended by deleting "80" and inserting in lieu thereof "100".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of
Internal Revenue.

Approved: October 20, 1978.

DONALD C. LUBICK,
Assistant Secretary
of the Treasury.

§ 1.1239 [Deleted]

PARAGRAPH 1. Section 1.1239 and the historical note are deleted.

PAR. 2. Section 1.1239-1 is redesignated as § 1.1239-2 and is amended by revising the heading and first two sentences thereof to read as follows:

§ 1.1239-2 Gain from sale or exchange of depreciable property between certain related taxpayers on or before October 4, 1976.

Section 1239 provides in general that any gain from the sale or exchange of depreciable property between a husband and wife or between an individual and a controlled corporation on or before October 4, 1976 (and in the case of a sale or exchange occurring after that date if made under a binding contract entered into on or before that date), shall be treated as ordinary income. Thus, any gain recognized to the transferor from a sale or exchange after May 3, 1951, and on or before October 4, 1976 (or thereafter if pursuant to a binding contract entered into on or before that date), directly or indirectly, between a husband and wife or between an individual and a controlled corporation, of property which, in the hands of the transferee, is property of a character subject to an allowance for depreciation provided in section 167 (including such property on which a deduction for amortization is allowable under sections 168 and 169) shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

PAR. 3. A new § 1.1239-1 is added, to read as follows:

§ 1.1239-1 Gain from sale or exchange of depreciable property between certain related taxpayers after October 4, 1976.

(a) *In general.* In the case of a sale or exchange of property, directly or indirectly, between related persons after October 4, 1976 (other than a sale or exchange made under a binding contract entered into on or before that date), any gain recognized by the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167. This rule also applies to property which would be subject to the allowance for depreciation provided in section 167 except that the purchaser has elected a different form of deduction, such as those allowed under sections 169, 188, and 191.

(b) *Related persons.* For purposes of paragraph (a), the term "related persons" means—

- (1) A husband and wife,
- (2) An individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or
- (3) Two or more corporations 80 percent or more in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual.

(c) *Rules of construction.*—(1) *Husband and wife.* For purposes of paragraph (b)(1), if on the date of the sale or exchange a taxpayer is legally separated from his spouse under an interlocutory decree of divorce, the taxpayer and his spouse shall not be treated as husband and wife, provided the sale or exchange is made pursuant to the decree and the decree subsequently becomes final. Thus, if pursuant to an interlocutory decree of divorce, an individual transfers depreciable property to his spouse and, because of this section, the gain recognized on the transfer of the property is treated as ordinary income, the individual may, if the interlocutory decree becomes final after his tax return has been filed, file a claim for a refund.

(2) *Sales between commonly controlled corporations.* In general, in the case of a sale or exchange of depreciable property between related corporations (within the meaning of paragraph (b)(3) of this section), gain which is treated as ordinary income by reason of this section shall be taxable to the transferor corporation rather than to a controlling shareholder. However, such gain shall be treated as ordinary income taxable to a controlling shareholder rather than the

transferor corporation if the transferor corporation is used by a controlling shareholder as a mere conduit to make a sale to another controlled corporation, or the entity of the corporate transferor is otherwise properly disregarded for tax purposes. Sales between two or more corporations that are related within the meaning of paragraph (b)(3) of this section may also be subject to the rules of section 482 (relating to allocation of income between or among organizations, trades, or businesses which are commonly owned or controlled), and to rules requiring constructive dividend treatment to the controlling shareholder in appropriate circumstances.

(3) *Ownership of stock.* For purposes of determining the ownership of stock under this section, the constructive ownership rules of section 318 shall be applied, except that section 318(a)(2)(C) (relating to attribution of stock ownership from a corporation) and section 318(a)(3)(C) (relating to attribution of stock ownership to a corporation) shall be applied without regard to the 50-percent limitation contained therein. The application of the constructive ownership rules of section 318 to section 1239 is illustrated by the following examples:

Example (1). A, an individual, owns 79 percent of the stock (by value) of Corporation X, and a trust for A's children owns the remaining 21 percent of the stock. A's children are deemed to own the stock owned for their benefit by the trust in proportion to their actuarial interests in the trust (section 318(a)(2)(B)). A, in turn, constructively owns the stock so deemed to be owned by his children (section 318(a)(1)(A)(ii)). Thus, A is treated as owning all the stock of Corporation X, and any gain A recognizes from the sale of depreciable property to Corporation X is treated under section 1239 as ordinary income.

Example (2). Y Corporation owns 100 percent in value of the stock of Z Corporation. Y Corporation sells depreciable property at a gain to Z Corporation. P and his daughter, D, own 80 percent in value of the Y Corporation stock. Under the constructive ownership rules of section 318, as applied to section 1239, P and D are each considered to own the stock in Z Corporation owned by Y Corporation. Also, P and D are each considered to own the stock in Y Corporation owned by the other. As a result, both P and D constructively own 80 percent or more in value of the stock of both Y and Z Corporations. Thus, the sale between Y and Z is governed by section 1239 and produces ordinary income to Y.

[FR Doc. 78-31069 Filed 11-2-78; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL
SAFETY AND HEALTH ADMINIS-
TRATION, DEPARTMENT OF LABOR

PART 1956—APPROVED STATE
PLANS FOR ENFORCEMENT OF
STATE STANDARDS

Notice of Approval of the Connecti-
cut State Plan for Public Employees
Only

AGENCY: Occupational Safety and
Health Administration, Department of
Labor.

ACTION: Final rule.

SUMMARY: The Connecticut plan
covering public sector employees only
is approved as a developmental plan
under section 18 of the Occupational
Safety and Health Act and 29 CFR
Part 1956. Under the approved plan,
the Connecticut Department of Labor
is designated as the State agency re-
sponsible for the development and en-
forcement of occupational safety and
health standards, throughout the
State. Approval of the Connecticut
State plan which covered both public
and private sector employees is with-
drawn.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION
CONTACT:

Rrencia V. McGlown, Project Offi-
cer, U.S. Department of Labor, Oc-
cupational Safety and Health Ad-
ministration, 2100 M Street NW.,
Room 149, Washington, D.C. 20210,
202-653-5377.

SUPPLEMENTARY INFORMATION:

AUTHORITY

Section 18 of the Act provides that a
State which desires to assume respon-
sibility for the development and en-
forcement of standards relating to any
occupational safety and health issue
with respect to which a Federal stand-
ard has been promulgated may submit
a plan to the Assistant Secretary of
Labor for Occupational Safety and
Health (Assistant Secretary) describ-
ing in detail the proposed program.
Part 1956 of Title 29, Code of Federal
Regulations, prescribes procedures
under section 18 of the Act whereby
States may submit for approval under
the requirements of that section, plans
to assume responsibility for the devel-
opment and enforcement of occupa-
tional safety and health standards ap-
plicable only to employees of the State
and its political subdivisions (public
employees).

Under these regulations the Assist-
ant Secretary may approve a State
plan for public employees if in her

judgment the plan provides for the de-
velopment and enforcement of stand-
ards relating to hazards in employ-
ment covered by the plan which are or
will be at least as effective in provid-
ing safe and healthful employment
and places of employment for public
employees as standards promulgated
and enforced by Federal OSHA in the
private sector under section 6 of the
Federal Act. In making this determi-
nation the Assistant Secretary will
consider, among other things, the cri-
teria and indices of effectiveness set
forth in 29 CFR Part 1956, Subpart B.

BACKGROUND

A State plan for the enforcement of
occupational safety and health stand-
ards in Connecticut was approved by
the Assistant Secretary on December
28, 1973 (39 FR 1013; 29 CFR 1952.300
et seq.). This plan included coverage of
private workplaces as well as a pro-
gram for public employees. By an act
of the Connecticut General Assembly,
effective July 1, 1978 (P.A. 77-610),
the Connecticut Occupational Safety
and Health Act was amended to ex-
clude coverage of private sector em-
ployees. This change in the scope of
State safety and health coverage ne-
cessitates withdrawal of the prior
18(b) plan and submission for the As-
sistant Secretary's approval of a State
plan covering public employees only.
On January 30, 1978, the State of Con-
necticut submitted such a plan to the
Boston regional office of the Occupa-
tional Safety and Health Administra-
tion. In a letter from Gov. Ella Grasso
to the Assistant Secretary dated Sep-
tember 18, 1978, the State has agreed
to withdraw its 18(b) plan covering
both private and public employees
upon approval of the State public em-
ployee only plan. On July 28, 1978,
notice was published in the FEDERAL
REGISTER (43 FR 32824) of the submis-
sion of Connecticut public employees
only plan and its availability for public
comment. No public comments were
received. However, the national office
review of the plan identified several
areas where appropriate revisions or
additions would be needed in order to
clarify the State's coverage of public
employees only. These problem areas
were communicated to the State. The
State responded satisfactorily in the
form of assurances to each of the na-
tional office comments. These assur-
ances are contained in a letter dated
September 19, 1978, from Peter A.
Relly, Commissioner, Connecticut De-
partment of Labor to Eula Bingham,
Assistant Secretary, Occupational
Safety and Health. The assurances are
discussed below:

1. The Connecticut Occupational
Safety and Health Act has undergone
numerous amendments since its incep-
tion in 1973. In order to have a single
document which reflects all amend-

ments the State has assured that it
will submit a reprint of the State's Act
as amended.

2. Section 31-396 of the Connecticut
Act provides that owners, lessees,
agents, or managers of buildings in
which public employees work shall
comply with all standards, rules and
orders issued under the Connecticut
Act. The plan contains no implement-
ing regulations or statements of policy
describing the manner in which this
owner compliance provision will be en-
forced. After careful consideration, it
has been determined that the owner
compliance provision should not pre-
vent the Connecticut plan from meet-
ing the approval criteria under 29
CFR Part 1956. However, since the
full scope and effect of this provision
are not yet known, the Assistant Sec-
retary's continued approval of this
provision is subject to the results of
specific monitoring of actual oper-
ations.

3. The State has provided assurances
that it will revise its State poster to re-
flect coverage of public sector employ-
ees only.

4. The State has provided assurance
that it will respond to changes in the
Federal program which could have an
adverse impact on the State's public
employee only program by timely sub-
mission of Federal program change
supplements.

5. Connecticut has adopted all Fed-
eral standards promulgated through
September 16, 1977. The State has
provided assurance that it will contin-
ue to adopt all Federal permanent
standards or develop alternative State
standards within 6 months of Federal
promulgation and emergency tempo-
rary standards within 30 days. The
State further assured that in those sit-
uations where public employees are
exposed to unique hazards for which
existing standards do not provide ade-
quate protection, effective State
standards will be adopted.

6. The State has provided assurance
that it will revise State regulations
and procedures comparable to 29 CFR
Part 1903 (Inspections, Citations and
Proposed Penalties); 29 CFR Part 1904
(Recording and Reporting Occupational
Injuries and Illnesses); 29 CFR Part
1905 (Variance Rules); 29 CFR Part
2200 (Occupational Safety and Health
Review Commission); Field Operations
Manual and IH Manual. These revi-
sions will reflect Connecticut coverage
of public employees only and other-
wise update the regulations, etc.

7. The State has provided assurance
that it will revise its discrimination
procedures in order to fully implement
the provisions of the State's Act. Pro-
cedures will be adopted by the State
providing for: (1) Filing of a complaint
within 30 days; (2) notification to the
complainant and employer, within 90

days of complaint receipt, of the Commissioner's determination; and (3) the ability of the State department of labor to initiate compensatory actions, including backpay and reinstatement of the employee. In addition, Connecticut assures that it will update its procedures to include the provisions for employee walkaround pay and employer retention of exposure records and employee access to the log.

8. To clarify the scope of Connecticut's enforcement responsibility under the plan a comprehensive survey of workplaces and working conditions in the public sector will be made. The State has provided assurance that it will submit a list identifying each government entity whose workers are covered under the plan, giving the number of employees for each entity listed, and describing the type of work performed. A standard industrial classification (SIC) code will be determined for each entity.

9. In order to insure that public employee only plans submitted by States under 29 CFR Part 1956 are complete, and to insure consistency of content and format from State to State, Federal OSHA has developed a public employee only plan outline. All public employee only plans are required to meet the format and content requirements of the outline; however, because the Connecticut plan was submitted prior to development of this outline, the plan does not meet the outline's format requirements. The State has provided assurance that the plan will be resubmitted in the required format as a developmental step.

DECISION

After careful consideration of the Connecticut State plan for the development and enforcement of State standards applicable to State and local government employees, the plan is hereby approved as a developmental plan under section 18 of the Act and 29 CFR Part 1956. This decision incorporates the requirements of the Act and of regulations applicable to State plans generally. Approval of Connecticut's comprehensive 18(b) plan is withdrawn pursuant to 29 CFR 1955.3(b).

Accordingly, subpart X of 29 CFR Part 1952 is hereby revoked and revised to read:

Subpart X [Reserved]

In addition, 29 CFR Part 1956 is revised by deleting the existing subpart E and adding a new subpart E as follows:

Subpart E—Connecticut

§ 1956.40 Description of the plan.

(a) The plan designates the Connecticut Department of Labor as the State agency responsible for adminis-

tering the plan throughout the State. The State has adopted all Federal standards promulgated as of September 1977 and has given assurances that it will continue to adopt all Federal standards, revisions, and amendments. The State further assured that in those situations where public employees are exposed to unique hazards for which existing standards do not provide adequate protection, effective State standards will be adopted. The plan includes legislation, Public Act 73-379, passed by the Connecticut Legislature in 1973 and amended as follows: P.A. 74-176, P.A. 75-285, P.A. 77-107, and P.A. 77-610. Under the legislation the Connecticut Department of Labor, Occupational Safety and Health Division has full authority to enforce and administer all laws and rules protecting the safety and health of employees of the State and its political subdivisions. The plan is accompanied by a statement of the Governor's support and a legal opinion that the Connecticut legislation meets the requirements of the Occupational Safety and Health Act of 1970 and is in accord with the constitution of the State.

(b) The plan establishes procedures for variances and the protection of employees from hazards under a variance; insures inspection in response to complaints; provides employer and employee representatives an opportunity to accompany inspectors and to call attention to possible violations before, during, and after inspections; notification to employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protection; protection of employees against discharge or discrimination in terms and conditions of employment; provision for prompt notices to employers and employees of violations of standards and abatement requirements; sanctions against employers for violation of standards and orders; employer's right to appeal citations for violations, abatement periods and proposed penalties; employee's right to appeal abatement periods; and employee participation in review proceedings. Also included are provisions for right of entry for inspection, "prohibition" of advance notice of inspection and the requirement for both employers and employees to comply with the applicable rules, standards, and orders, and employer obligations to maintain records and provide reports as required. Further, the plan provides assurances of a fully trained adequate staff and sufficient funding.

(c) The plan includes the following documents as of the date of approval:

(1) The plan document and appendixes submitted January 30, 1978.

(2) Letter from the Commissioner, Connecticut Department of Labor, dated September 19, 1978, providing supplemental assurances.

§ 1956.41 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State programs, 2100 M Street NW, Room 149, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1804, John F. Kennedy Federal Building, Boston, Mass. 02203; Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Conn. 06109.

§ 1956.43 Developmental schedule.

The Connecticut plan is developmental. The following is a schedule of major developmental steps as provided by the plan:

(a) A new State poster will be printed, by December 15, 1978, in order to reflect coverage of the public sector only.

(b) Standards identical to or at least as effective as all existing Federal standards will be adopted by February 1, 1979.

(c) Connecticut regulations equivalent to the following Federal provisions will be revised by April 1, 1979, to show coverage of the public sector only and to accurately reflect the current program: 29 CFR Part 1903 (Inspections, citations, and proposed penalties); 29 CFR Part 1904 (Recording and Reporting Occupational Injuries and Illnesses); 29 CFR Part 1905 (Variance Rules); 29 CFR Part 2200 (Review Commission); and the Field Operations Manual.

(d) The State will submit revised and updated provisions dealing with employee discrimination by May 1, 1979.

(e) The State will prepare by June 1, 1979, a comprehensive list of government entities whose employees are covered by the plan, giving the number of employees for each entity, describing the work performed, and assigning for each entity a standard industrial classification (SIC) code.

(f) The State will resubmit its plan in the required outline format by October 1, 1979.

(Secs. 8(g)(2), 18 (c), Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2), 667(c).))

Signed at Washington, D.C., this 2d day of October 1978.

EULA BINGHAM,
Assistant Secretary
of Labor.

[FR Doc. 31186 Filed 11-2-78; 8:45 am]

[3810-70-M]

Title 32—National Defense

**CHAPTER I—OFFICE OF THE
SECRETARY OF DEFENSE**

**Armed Services Procurement
Regulation**

AGENCY: Department of Defense.

ACTION: Amendment of 1976 Edition of the Armed Services Procurement Regulation.

SUMMARY: In this document, the Department of Defense gives notice that it is amending the 1976 Code of Federal Regulations (CFR) edition of the Armed Services Procurement Regulation by incorporating changes made by Defense Procurement Circulars 76-1 through 76-10. The Department of Defense takes this action to bring the 1976 edition up to date. The Department of Defense also gives notice that these Defense Procurement Circulars are on file with the Office of the Federal Register, and will be published as a supplement to 32 CFR Parts 1-39, Volumes I, II, and III. Prior to that time, copies will be available for inspection and purchase.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

T. G. Cassidy, Acting Director, Defense Acquisition Regulatory Council, Room 3D1080, Pentagon, Washington, D.C. 20301, telephone: AC 202-697-6710.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The basic Armed Services Procurement Regulation (ASPR), July 1976 edition, was adopted into the CFR on August 3, 1977 (42 FR 39213). This regulation is available to the public in two publications. The Department of Defense publishes and distributes through the Government Printing Office a looseleaf edition of the ASPR. Subscribers to this looseleaf edition periodically receive amendments through Defense Procurement Circular replacement pages. Subscribers can then substitute these pages in the looseleaf ASPR for the ones they are intended to replace.

In the Code of Federal Regulations the ASPR is codified in 32 CFR Parts 1-39. The Office of the Federal Register (OFR) last published a bound edition of the ASPR in three volumes, revised as of July 1, 1976. This edition was prepared by photographing the Department of Defense looseleaf ASPR, so the contents of the two publications are identical.

The OFR has again approved the amendment of the ASPR in the Code of Federal Regulations in this manner largely because the Department of Defense and the General Services Administration, through the Office of Federal Procurement Policy, are drafting the Federal Acquisition Regulations (FAR) to replace existing systems of procurement regulations. The FAR will be a simple, uniform, acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriate funds. For this reason, the approval of the OFR to amend the ASPR in this manner is effective only until July 1, 1979, when it will be reviewed in light of progress made on the new Federal Acquisition Regulation.

**AMENDMENTS TO 32 CFR PARTS 1-39,
REVISED AS OF JULY 1, 1976**

For the purpose of updating the 1976 CFR edition of the ASPR, the Department of Defense has filed with the Office of the Federal Register copies of Defense Procurement Circulars 76-1 through 76-10. The replacement pages appearing in Circulars 76-1 through 76-10 will be issued by the OFR as a supplement to the basic CFR volumes, bringing them up to date as of September 26, 1977. The Defense Procurement Circulars can also be inspected at the Office of the Federal Register, 1100 L Street NW, Washington, D.C., and are available from the Department of Defense.

The Department of Defense gives notice that the 1976 edition of the ASPR (32 CFR Parts 1-39, revised as of July 1, 1976) is amended by Defense Procurement Circulars 76-1 through 76-10 (5 U.S.C. 301, 10 U.S.C. 202, DOD Directive No. 5126.22 and ASPR 1-106).

Any amendments made to the looseleaf editions of ASPR through Defense Procurement Circular replacement pages that are subsequent to DPC 76-10, will be published in the FEDERAL REGISTER as amendments to the ASPR that appears in the CFR. The two publications of the ASPR will thus be kept identical.

The following is a list of those ASPR sections affected by DPCs 76-1 through 76-10.

76-1	
1-335 (add)	2-205.5 (add)
1-338 (add)	3-501 (add)
1-701.1 (amend)	4-105 (add)
1-2102 (add)	

76-2	
Appendix O (rev)	

76-3	
3-808 (rev)	E-509.5 (add)
3-1300 (add)	DD Form 1547 (rev)
15-205.50 (add)	DD Form 1861 (rev)

76-4	
1-102 (add)	1-507 (rev)
1-330 (amend)	1-1504 (add)
1-506.1 (add)	1-1505 (amend)

76-4—Continued

6-705 (rev)	6-705.6 (delete)
6-705.1 (delete)	6-1300 (add)
6-705.2 (delete)	7-104.27 (add)
6-705.3 (delete)	7-2003.73 (add)
6-705.4 (delete)	7-2003.74 (add)
6-705.5 (delete)	7-2003.75 (add)

76-5

1-302.2 (add)	7-608.21 (amend)
1-304.2 (amend)	7-608.22 (amend)
1-312 (amend)	7-702.12 (amend)
1-314 (add)	7-702.18 (amend)
1-329.2 (amend)	7-705.8 (amend)
1-332.1 (rev)	7-1702.4 (amend)
1-332.2 (rev)	7-2003.73 (add)
1-332.3 (rev)	7-2003.74 (add)
1-332.4 (rev)	7-21 (add)
1-332.5 (rev)	8-203 (add)
1-604.3 (add)	8-705.2 (add)
1-605.3 (add)	9-107.1 (add)
1-705.5 (add & amend)	9-107.2 (add)
1-1003.9 (amend)	9-107.3 (amend)
1-1005.1 (amend)	9-107.9 (amend)
1-1105 (amend)	9-109.4 (amend)
1-1202 (amend)	9-109.6 (amend)
1-1204 (amend)	10-202.2 (amend)
2-201 (add & amend)	10-604 (amend)
3-501 (add & amend)	11-000 (amend)
3-506 (amend)	11-401.4 (amend)
3-608.2 (add)	12-101.3 (amend)
3-608.8 (add)	12-801 (add)
3-609.3 (amend)	12-808.1 (amend)
4-116.1 (amend)	12-1102.4 (amend)
4-500 (add)	16-101.2 (amend)
4-501 (add)	16-102.1 (add)
4-502 (add)	16-303 (add)
4-503 (add)	16-401.1 (amend)
4-504 (add)	16-401.2 (amend)
4-505 (add)	16-401.3 (amend)
5-102.2 (amend)	16-402.2 (amend)
5-102.3 (amend)	16-403.2 (amend)
5-108 (amend)	16-404 (delete)
6-805.2 (amend)	16-404.1 (delete)
7-001 (add & amend)	16-404.2 (delete)
7-101 (amend)	16-501.2 (amend)
7-104.34 (amend)	16-502 (add)
7-104.67 (delete)	16-810.2 (add)
7-104.68 (delete)	16-812 (amend)
7-105.1 (amend & add)	17-201 (add)
7-105.5 (delete)	17-207.1 (add)
7-203.22 (add & amend)	17-208.5 (add)
7-302.23 (amend)	18-108.1 (amend)
7-402.22 (delete)	18-116 (amend)
7-402.26 (add)	18-305.1 (add)
7-600 (delete)	18-306.3 (amend)
7-601 (amend)	18-704.5 (amend)
7-602.7 (amend)	18-704.13 (amend)
7-602.8 (amend)	20-101 (amend)
7-602.11 (amend)	20-204.3 (add)
7-602.12 (amend)	20-204.4 (add)
7-602.17 (amend)	20-401 (add)
7-602.19 (amend)	21-1 (add)
7-602.23 (amend)	21-103 (amend)
7-602.26 (amend)	21-104 (delete)
7-602.29 (amend)	21-105 (amend)
7-602.39 (amend)	21-111 (delete)
7-602.53 (add)	21-111.1 (add)
7-602.54 (add)	21-113 (add & amend)
7-603.24 (amend)	21-116 (amend)
7-603.51 (delete)	21-119 (add)
7-604.1 (amend)	21-120 (add)
7-607.6 (amend)	21-123 (amend)
7-607.8 (amend)	21-124 (add)
7-607.13 (amend)	21-130 (amend)
7-607.14 (amend)	21-134 (add)
7-607.26 (amend)	21-2 (add)
7-607.27 (amend)	21-202 (amend)
7-608.4 (amend)	21-204 (delete)
	21-205 (amend & add)

76-5—Continued

21-207 (amend) Appendix E-602.3
 21-208 (amend) (amend)
 21-209 (add) Appendix F-100.253
 21-301 (amend) (rev)
 21-303 (amend) 200.1155 (rev)
 21-401 (amend) Appendix I-401
 21-402 (amend) (amend)
 23-202 (add)
 26-702 (amend) Appendix N (amend)

76-6

1-321 (add) 8-202 (add)
 1-332.1 (add) 8-206.1 (add)
 1-332.6 (add) 8-209.8 (add)
 1-701.1 (amend) 9-503 (delete)
 1-706.6 (amend & add) 10-201.1 (amend)
 1-706.7 (amend & add) 10-405 (amend)
 1-803 (amend) 10-501 (add)
 1-804.2 (amend & add) 10-501.2 (amend)
 1-1003.9 (amend) 10-501.3 (amend)
 1-1204 (add) 10-501.4 (amend)
 1-1500 (amend) 11-000 (add)
 1-1501 (amend) 11-302 (amend)
 1-1502 (amend) 11-403.1 (amend)
 1-1503 (amend) 11-403.2 (amend)
 1-1504 (amend) 13-404 (delete)
 1-1505 (amend) 13-405 (amend & delete)
 1-1905 (add) 13-406 (amend & add)
 2-201 (amend & add) 13-601.1 (add)
 3-201.2 (add) 15-201.6 (add)
 3-501 (add & amend) 16-104.2 (add)
 3-608.8 (add & amend) 16-104.3 (add & amend)
 3-1204 (amend) 16-104.4 (add & amend)
 4-118.5 (delete) 18-106.1 (amend)
 5-103 (delete) 18-402.2 (add)
 6-805.2 (amend) 18-704.13 (amend)
 6-1309 (amend) 19-204 (amend)
 6-1311 (add) 21-102 (add)
 7-103.10 (amend) 18-704.13 (amend)
 7-104.65 (amend) 19-204 (amend)
 7-106.4 (amend & delete) 21-102 (add)
 7-108.1 (amend & add) 24-205.4 (amend)
 7-108.2 (amend & add) 24-302.3 (add)
 7-303.62 (amend & delete) 24-302.5 (add)
 7-602.27 (amend) 24-302.8 (amend)
 7-603.10 (amend) Appendix B-306.1
 7-603.48 (amend) (amend)
 7-704.40 (add) Appendix C-306.1
 7-705.33 (add) (delete)
 7-1002.7 (amend) Appendix F-200.1057
 7-1501.4 (amend) (rev)
 7-2003.5 (amend) 200.1140-1 (rev)
 7-2003.8 (amend) 200.1547 (rev)
 7-2003.11 (amend) 200.1662 (rev)
 7-2003.13 (amend) 200.2025 (add)
 Appendix I-301
 (amend & add)
 401 (amend)
 Appendix Q (add)

76-7

1-108 (delete) 3-805.5 (add)
 1-201.41 (add) 3-811 (add)
 1-339 (add) 3-902.1 (amend)
 1-701.1 (delete) 3-902.3 (amend & add)
 1-707.4 (amend) 3-902.4 (amend)
 1-905.1 (amend) 4-204 (amend)
 1-1103 (amend) 5-704 (amend)
 2-201 (amend & add) 5-704.1 (amend)
 2-205.1 (add) 5-704.2 (amend)
 3-501 (add) 5-903.1 (delete)
 3-507.2 (amend) 5-903.3 (delete)
 3-608.2 (amend & add) 5-904.2 (delete)
 3-805.1 (delete) 5-905 (amend)

76-7—Continued

5-906 (amend) 12-101.3 (amend)
 5-1107.1 (amend) 12-103.2 (amend)
 5-1108 (amend) 12-802 (amend)
 5-1109.3 (amend) 12-803 (amend)
 5-1201.2 (amend) 12-804 (amend)
 6-302 (amend) 12-805 (amend)
 6-303 (amend & delete) 12-808.1 (amend)
 6-304.1 (amend) 12-809 (amend)
 6-504.2 (amend) 12-812 (amend)
 6-505 (amend) 12-813 (amend)
 6-603.4 (amend) 12-1102.4 (amend)
 6-605.4 (amend) 15-205.31 (amend)
 6-1312 (add) 15-205.37 (amend)
 7-104.9 (amend & add) 16-401.1 (amend)
 7-104.23 (amend & add) 16-403.2 (delete)
 7-104.32 (amend) 16-505 (amend)
 7-104.97 (add) 18-108.1 (amend)
 7-203.8 (add) 18-305.1 (amend)
 7-204.64 (add) 18-702.2 (amend)
 7-303.66 (add) 18-704.12 (amend)
 7-402.8 (amend) 19-208.4 (amend)
 7-403.62 (add) 20-704 (add)
 7-504.18 (add) 22-601.1 (amend)
 7-602.50 (amend) 22-601.3 (amend)
 7-603.58 (add) 22-602.1 (amend)
 7-606.30 (add) 22-700 (add)
 7-608.23 (add) 23-000 (amend)
 7-901.10 (add) 23-100 (amend)
 7-902.43 (add) 23-101 (amend)
 7-1601.1 (amend) 23-102 (add)
 7-1601.9 (amend) 23-103 (amend & add)
 7-1601.13 (amend) 23-104 (amend & add)
 7-1601.14 (amend & add) 23-105 (amend & add)
 7-1601.15 (amend) 23-106.1 (amend)
 7-1601.18 (amend) 23-106.2 (amend)
 7-1601.20 (add) 23-107 (amend)
 7-1702.21 (add) 23-108 (amend & add)
 7-1903.2 (amend) 23-201.1 (amend)
 7-1903.22 (add) 23-201.2 (amend)
 7-1903.56 (add) 23-202 (add)
 7-1910.40 (add) 23-204 (amend)
 7-2002.2 (amend) 24-205.4 (amend)
 7-2002.3 (amend) Appendix E-212
 7-2002.4 (amend) (amend)
 7-2003.59 (amend) 406.1 (amend)
 7-2003.73 (amend) 524.5 (add)
 7-2003.76 (add) 626 (amend)
 7-2003.77 (add) Appendix F-100.19-B
 8-216 (amend) (rev)
 9-603 (add) 200.1140-1 (rev)
 9-605 (amend) 200.1155 (rev)
 10-505 (amend) Appendix K-202
 10-603 (amend) (add)
 12-101.2 (add) 203.1 (add)
 Appendix N (rev)

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1-201.14 (amend) 1-1704.3 (amend)
 1-331 (amend) 1-1704.4 (amend)
 1-702 (add) 1-1705 (amend)
 1-706.3 (amend & add) 1-1708 (amend)
 1-905.4 (add) 7-104.44 (amend & add)
 1-1203.2 (amend) 7-602.42 (amend)
 1-1203.3 (amend) 7-602.50 (amend)
 1-1701 (add) 7-2003.8 (amend)
 1-1701.1 (delete) 7-2003.9 (amend)
 1-1701.2 (add) 7-2003.71 (amend)
 1-1702 (delete) 9-600 (amend)
 1-1702.1 (amend) 15-205.6 (add & delete)
 1-1702.2 (add) 16-827.2 (amend)
 1-1702.3 (amend) 16-827.3 (amend)
 1-1703 (add) 18-106.2 (amend)
 1-1703.1 (amend & add) E-524.5 (add)
 1-1704.1 (amend) Appendix N (amend)
 1-1704.2 (amend) Appendix O (amend)

76-9

S3-701 (amend) 5-909 (add)
 1-1003.1 (amend) 7-104.34 (amend)
 1-1003.2 (amend) 7-104.44 (amend)
 1-1703.1 (amend) 7-204.28 (amend)
 1-1708 (delete) 7-302.23 (amend)
 2-202.4 (amend) 7-602.50 (amend)
 2-202.5 (add) 7-702.12 (add)
 3-410.2 (amend) 9-107.3 (add)
 3-507.1 (amend) 9-202.3 (amend)
 3-608.2 (amend) 10-105.3 (amend)
 4-101 (amend) 13-406 (amend)
 4-107 (delete) 15-203 (amend)
 4-109 (amend) 15-205.1 (amend)
 4-900 (add) 15-205.6 (add)
 4-902 (add) 15-205.17 (amend)
 4-903 (add) 15-205.23 (add)
 4-904 (add) 15-205.35 (add)
 4-905 (add) 15-205.41 (amend)
 4-906 (add) 15-504 (delete)
 4-907 (add) 16-001 (add)
 4-908 (add) 20-203.1 (amend & add)
 4-909 (add) Appendix B-603.1
 4-910 (add) (amend)
 4-911 (add) Appendix E-509.10
 4-912 (add) (add)
 4-913 (add) 512.2 (add)
 5-900 (amend) 512.3 (add)
 5-901 (amend) 529 (add)
 5-902 (amend) 529.1 (add)
 5-903 (add) 529.2 (add)
 5-903.1 (delete) 529.3 (add)
 5-903.2 (delete) 529.4 (add)
 5-904 (amend) 529.5 (add)
 5-904.1 (delete) 529.6 (add)
 5-904.2 (delete) 608 (amend)
 5-905 (amend) 611 (amend)
 5-906 (amend) 626 (amend)
 5-907 (rev) Appendix O (add)
 5-908 (add)

76-10

1-201.14 (amend) 16-104.4 (delete)
 1-338 (add) 18-402.2 (add)
 1-1702.1 (amend) 18-402.3 (add)
 1-1704.1 (amend) 19-217.1 (add)
 1-1704.4 (delete) 21-300 (rev)
 1-1704.5 (add) 21-301 (rev)
 1-1707 (amend) 21-302 (amend)
 3-605.3 (amend) 21-303 (amend)
 3-1204.1 (add) 21-304 (amend)
 3-1204.2 (add) Appendix E-403
 5-1108.1 (add) (amend)
 6-302 (amend) 404 (amend)
 6-401 (rev) 408 (amend)
 6-402 (delete) 410 (amend)
 6-403 (rev) 415 (amend)
 6-404 (delete) 418 (amend)
 6-1313 (add) 419 (add)
 7-001 (amend) Appendix F-200.1499
 7-103.5 (add) (rev)
 7-103.15 (amend) Appendix M-301
 7-104.44 (amend, delete, & add) (add)
 7-104.83 (amend & add) 302 (add)
 303 (add)

Dated: October 31, 1978.

MAURICE W. ROCHE,
 Director, Correspondence and
 Directives, Washington Head-
 quarters Services, Department
 of Defense.

[FR Doc. 78-31143 Filed 11-2-78; 8:45 am]

[1505-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 984]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wyoming Plan Revisions

Correction

In FR Doc. 78-29433 appearing at page 48637 in the issue for Thursday, October 19, 1978; in the second column of page 48638, in the second line of § 52.2620(c)(10), the word "capacity" should have read "opacity".

[6560-01-M]

[FRL 1001-2]

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Procedural Framework

AGENCY: Environmental Protection Agency

ACTION: Final rulemaking.

SUMMARY: This notice establishes a new part 62, "Approval and Promulgation of State Plans for Designated Facilities and Pollutants." Part 62 provides for procedural framework in which EPA will approve or disapprove plans submitted by the State, and promulgate Federal plans if necessary, under section 111(d) of the Clean Air Act. Section 111(d) of the Act requires States to submit plans to control emissions of designated pollutants from designated facilities; EPA must designate the facilities and pollutants for which States must develop plans.

This action is needed because EPA's actions in approval, disapproval, and promulgation of State plans must be made public. The intended effect of this action is to establish the framework for publicizing these actions. The first plans will be those for the control of fluoride emissions from phosphate fertilizer plants; States were required to submit those plans to EPA by December 1, 1977.

Several States have written EPA letters indicating that they have no phosphate fertilizer facilities. We call these

letters "negative declarations" and are approving them below in subparts B-DDD. The remainder of the State submissions have been or will be proposed and then approved, disapproved, or promulgated as necessary when appropriate information is received from the States.

EFFECTIVE DATE: Immediately.

ADDRESS: U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Control Programs Development Division (MD-15), Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT:

Joseph Sableski, Chief, Plans Guidelines Section, at 919-541-5437 or at the above address.

SUPPLEMENTARY INFORMATION: On July 10, 1978 (43 FR 29585), EPA proposed to establish a new part 62, "Approval and Promulgation of State Plans for Designated Facilities and Pollutants." The preamble to that FEDERAL REGISTER notice provided background on the nature of the action; interested persons may consult that notice for further information.

EPA received no significant comments on the proposal and is, therefore, promulgating the regulation as proposed without change as set forth below.

Dated: October 26, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 62 is added to 40 CFR Ch. I to read as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Subpart A—General Provisions

- Sec.
- 62.01 Definitions.
- 62.02 Introduction.
- 62.03 Extensions.
- 62.04 Approval status.
- 62.05 Legal authority.
- 62.06 Negative declarations.
- 62.07 Emissions standards, compliance schedules.
- 62.08 Emission inventories and source surveillance.
- 62.09 Revision of plans by Administrator.
- 62.10 Submission to Administrator.
- 62.11 Severability.
- 62.12 Availability of applicable plans.

Subparts B-O [Reserved]

Subpart P—Indiana

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.3600 Identification of plan—Negative declaration.

Subparts Q-W [Reserved]

Subpart X—Michigan

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.5600 Identification of plan—Negative declaration.

Subpart Y—Minnesota

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.5850 Identification of plan—Negative declaration.

Subparts Z-FF [Reserved]

Subpart GG—New Mexico

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.7850 Identification of plan—Negative declaration.

Subparts HH-KK [Reserved]

Subpart LL—Oklahoma

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.9100 Identification of plan—Negative declaration.

Subparts MM-XX [Reserved]

Subpart YY—Wisconsin

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

62.12350 Identification of plan—Negative declaration.

Subparts ZZ-DDD [Reserved]

AUTHORITY: Secs. 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

Subpart A—General Provisions

§ 62.01 Definitions.

As used in this part, all terms not defined herein shall have the meaning given to them in the Clean Air Act and in Part 60 of this chapter.

§ 62.02 Introduction.

(a) This part sets forth the Administrator's approval and disapproval of State plans for control of designated pollutants and facilities, and the Administrator's promulgation of such plans or portions thereof. Approval of a plan or any portion of a plan is based on a determination by the Administrator that it meets the requirements of section 111(d) of the act and

the provisions of Part 60 of this chapter.

(b) If a State does not submit a complete, approvable plan, the Administrator may then promulgate a substitute plan or part of a plan. The promulgated provision, plus the approved parts of the State plan, constitute the applicable plan for purposes of the act.

(c) The Administrator will promulgate substitute provisions for the disapproved regulatory provisions only. If a nonregulatory provision is disapproved, however, it will be noted in this part and a detailed explanation will be sent to the State.

(d) All approved regulatory provisions of each plan are incorporated by reference in this part. Section 62.12 provides information on availability of applicable plans. The Administrator and State and local agencies shall enforce (1) regulatory provisions of a plan approved or promulgated by the Administrator, and (2) all permit conditions or denials issued in carrying out the approved or promulgated regulations for the review of designated facilities.

(e) Each State's plan is dealt with in a separate subpart, with separate headings for different pollutants and facilities. The plans shall include an introductory section identifying the plan by name and the date of its submission. Additional sections are included as necessary to specifically identify disapproved provisions, to set forth reasons for disapproval, and to set forth provisions of the plan promulgated by the Administrator. Except as otherwise specified, all supplemental information submitted to the Administrator with respect to any plan has been submitted by the Governor of the State.

(f) Revisions to applicable plans will be included in this part when approved or promulgated by the Administrator.

§ 62.03 Extensions.

The Administrator may, whenever he determines necessary, extend the period for submission of any plan or plan revision or portion thereof.

§ 62.04 Approval status.

The approval status of each State's plan or portions thereof, are set forth in each subpart. All plans are approved unless specifically disapproved in the appropriate subpart.

§ 62.05 Legal authority.

(a) The Administrator's determination of the absence or inadequacy of

legal authority required to be included in the plan is set forth in each subpart. This includes the legal authority of local agencies and State governmental agencies other than an air pollution control agency if such other agencies are assigned responsibility for carrying out a plan or portion thereof.

(b) No legal authority as such is promulgated by the Administrator. Where required regulatory provisions are not included in the plan by the State because of inadequate authority, substitute provisions are promulgated by the Administrator.

§ 62.06 Negative declarations.

A State may submit to the Administrator a letter certifying that no designated facilities exist in the State if such is the case. The negative declaration will be in lieu of a plan.

§ 62.07 Emission standards, compliance schedules.

(a) In each subpart, emission standards and compliance schedules which have been disapproved by the Administrator are identified, and those promulgated by the Administrator are set forth.

(b) The Administrator's approval or promulgation of any compliance schedule shall not affect the responsibility of the owner or operator to comply with any applicable emission limitation on or after the date for final compliance specified in the applicable schedule.

§ 62.08 Emission inventories and source surveillance.

(a) Each subpart identifies the plan provisions for source surveillance which are disapproved, and sets forth the Administrator's promulgation of necessary provisions for requiring designated sources to maintain records, make reports, and submit information.

(b) The Administrator will not promulgate provisions for disapproved State or local agency procedures for testing, inspection, investigation, or detection. However, detailed critiques of such portions will be provided to the State.

§ 62.09 Revision of plans by Administrator.

After notice and opportunity for public hearing in each affected State, the Administrator may revise any provision of an applicable plan if:

(a) The provision was promulgated by the Administrator and

(b) The plan, as revised, will be consistent with the Act and with the requirements of Part 60, Subpart B of this chapter.

§ 62.10 Submission to Administrator.

Except as otherwise provided in § 62.23 of this chapter, all requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate and addressed to the appropriate Regional Office of the Environmental Protection Agency, to the attention of the Director, Air and Hazardous Materials Division (Environmental Programs Division in Region II). The Regional Offices are as follows:

Region and jurisdiction covered	Address
I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	JFK Federal Building, Boston, Mass. 02203.
II—New York, New Jersey, Puerto Rico, Virgin Islands.	Federal Office Building, 26 Federal Plaza, New York, N.Y. 10007.
III—Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, West Virginia.	Curtis Building, 6th and Walnut Sts., Philadelphia, Pa. 19106.
IV—Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee.	345 Courtland NE, Atlanta, Ga. 30308.
V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	Federal Building, 230 South Dearborn St., Chicago, Ill. 60606.
VI—Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	1st International Building, 1201 Elm St., Dallas, Tex. 75270.
VII—Iowa, Kansas, Missouri, Nebraska.	1735 Baltimore St., Kansas City, Mo. 64108.
VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	916 Lincoln Towers, 1880 Lincoln St., Denver, Colo. 80203.
IX—Arizona, California, Hawaii, Nevada, Guam, American Samoa.	215 Fremont St., San Francisco, Calif. 94105.
X—Washington, Idaho, Alaska.	1200 6th Ave., Seattle, Wash. 98101.

§ 62.11 Severability.

The provisions promulgated in this part and the various applications thereof are distinct and severable. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application.

§ 62.12 Availability of applicable plans.

Copies of the applicable plans will be available for public inspection at the following locations:

(a) The offices of the Directors, Air and Hazardous Materials Divisions at EPA Regional Offices I, III-X, and the

Director, Environmental Programs Division at EPA Regional Office II. The addresses and jurisdictions covered by these appear in § 62.10.

(b) Public Information Reference Unit, Library Systems Branch, EPA (PM 213), 401 M Street SW., Washington, D.C. 20460.

Subparts B-O [Reserved]

Subpart P—Indiana

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.3600 Identification of plan—Negative declaration.

The State Board of Health submitted on April 18, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subparts Q-W [Reserved]

Subpart X—Michigan

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.5600 Identification of plan—Negative declaration.

The State Department of Resources submitted on April 18, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subpart Y—Minnesota

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.5850 Identification of plan—Negative declaration.

The State Pollution Control Agency submitted on April 7, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subparts Z-FF [Reserved]

Subpart GG—New Mexico

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.7850 Identification of plan—Negative declaration.

The State Department of Health and Social Services submitted on October 31, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subparts HH-KK [Reserved]

Subpart LL—Oklahoma

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.9100 Identification of plan—Negative declaration.

The State Department of Health submitted on October 25, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subparts MM-XX [Reserved]

Subpart YY—Wisconsin

FLUORIDE EMISSIONS FROM PHOSPHATE FERTILIZER PLANTS

§ 62.12350 Identification of plan—Negative declaration.

The State Department of Natural Resources submitted on May 24, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Subpart B of this Chapter.

Subparts ZZ-DDD [Reserved]

[FR Doc. 78-31058 Filed 11-2-78; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[FSS P 2800.8B CHGES 27-34]

MISCELLANEOUS AMENDMENTS

AGENCY: Federal Supply Service, General Services Administration

ACTION: Final rule.

SUMMARY: This amendment to the General Services Administration Procurement Regulations (GSPR 5A) adds instructions and contract clauses applicable to the procurement of stainless steel flatware, provides guidelines to contracting officers regarding the receipt and safeguarding of bid samples, revises instructional material to update and supplement existing procedures, deletes obsolete instructions, adds or revises miscellaneous contract clauses, and updates procurement forms and exhibits. The purpose of these regulations is to improve Federal Supply Service procurement procedures and contract clauses.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Einar Windlingland, Director, Policy and Procedures Division, Office of Procurement, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-8344.

PART 5A-1—GENERAL

The table of contents for part 5A-1 is amended to delete § 5A-1.304.

Subpart 5A-1.3—General Policies

§ 5A-1.304 [Deleted]

Section 5A-1.304 is deleted.

Subpart 5A-1.7—Small Business Concerns

Sections 5A-1.703-2 (b) and (c)(1) are revised as follows:

§ 5A-1.703-2 Protest regarding small business status.

(b) When the solicitation provides for a total or partial small business set-aside, or a labor surplus area set-aside, it is essential that the applicable small business size standard be set forth clearly in the schedule (see §§ 1-1.706-5(c) and 1-1.706-6(c)). In addition, the following notice shall be included in all solicitations:

NOTICE CONCERNING SIZE STATUS

The small business representation appearing on page 2 of the solicitation is a material representation of fact upon which the Government relies when making award. If it is later determined that the small business representation was erroneous, and the Contractor was not a small business concern on the date of award of this contract, the contract may be canceled by the Government and the Contractor charged with any damages sustained by the Government as a result of such cancellation. Any bidder who has a question as to whether he is or is not a small business concern shall contact the nearest office of the Small Business Administration for guidance and assistance. In case of conflict between standards set forth in the solicitation and those of the SBA, the SBA regulations as of the time of bid opening shall control.

(c) * * *

(1) When submitting GSA form 894, Financial Responsibility—Inquiry and Reply (see § 5A-1.1205-2(b)), a notation shall be entered in the "Remarks" block requesting the appropriate GSA finance activity to furnish any available information such as corporate affiliation, franchise arrangements, number of employees, volume of sales, and other information which may have a bearing on the small business status of the prospective contractor. A copy of the SF 33, Solicitation, Offer, and Award, executed by the bidder (or

an appropriate extract of the bid) shall be attached to the GSA form 894 in order to provide the finance activity with the necessary information.

Subpart 5A-1.50—Reports

1. Section 5A1.5083-1 is revised as follows:

§ 5A-1.5083-1 Submission.

Each Central Office and regional procuring activity executing national and/or regional term contracts for stock items shall report those items which have, as of September 30 each year, unordered balances of guaranteed minimum quantities. Reports prepared for national term contracts shall be submitted to the Program Coordination and Support Division (FPC), so as to be received no later than October 13 of each year, for transmittal to the Office of Finance, Central Control Division (BCC), by October 20 of each year. Reports prepared for regional term contracts shall be submitted to the regional Finance Division no later than October 15 of each year.

2. Section 5A-1.5083-4(a) is revised as follows:

§ 5A-1.5083-4 Instructions.

(a) The required data shall be obtained from available records in the Central Office and/or regional procuring activities, including any cumulative tabulations from GSA form 1678, Contract Delivery Status Record (see § 5A-72.209).

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

The table of contents for part 5A-2 is amended to add § 5A-2.401-50 and delete §§ 5A-2.407-73, 5A-2.407-74, 5A-2.407-75, 5A-2.407-76, and 5A-2.407-77, as follows:

Sec.
5A-2.401-50 Receipt and safeguarding of bid samples.

Subpart 5A-2.2—Solicitation of Bids

1. Section 5A-2.201-70 is amended as follows:

§ 5A-2.201-70 Forms to be used.

When soliciting offers for advertised supply and service contracts, the following forms shall be used:

(a) Standard form 33, Solicitation, Offer, and Award, March 1977 edition. (See § 1-16.901-33 for illustration of form, and (i), below, for additional instructions.)

(b) Standard form 33-A, Solicitation Instructions and Conditions, July 1977

edition, shall be incorporated by reference in each solicitation for offers.

§ 5A-2.202-4 [Amended]

2. In § 5A-2.202-4(g), the first sentence is amended by deleting the reference "§ 5A-1.1205-3" and substituting therefor "§ 5A-1.1205-4."

3. Section 5A-2.202-4(j) is amended by deleting the reference "§ 5A-2.407-76" and substituting therefor "§ 5A-2.401-50."

Subpart 5A-2.4—Opening of Bids and Award of Contract

1. Section 5A-2.401-50 is added as follows:

§ 5A-2.401-50 Receipt and safeguarding of bid samples.

(a) Bid samples shall be received and safeguarded in accordance with FPR 1-2.401 and this section in either a sample room or the Business Service Center. The term "sample custodian" as used herein refers to both Business Service Center personnel or sample room personnel, as appropriate. The following procedures concern the receipt, custody, inspection, and disposition of samples.

(b) Bid samples submitted in response to a solicitation requirement must be received before bid opening to be considered for award. Samples are to be promptly time-stamped upon receipt by the sample custodian indicating the date and hour received. The sample custodian shall record whether the samples were sent by regular, registered, or certified mail, or by other delivery methods. Each sample container is to be accompanied by GSA form 434, Sample Record Sheet, included as part of the solicitation (see § 5A-16.950-434). The regulations concerning late bids (§ 1-2.303 also apply to samples received after the time set for receipt of bids.

(c) Bid samples shall be carefully protected against loss, damage, or pilferage. Each sample shall be recorded and tagged showing the firm's name and address, solicitation number, noun name, national stock number (NSN), and date of receipt. If samples or their containers arrive damaged, the sample custodian shall annotate the condition of the container upon receipt and request a quality assurance specialist (QAS) to verify the actual condition of the samples involved.

(d) Bid samples will not normally be inspected unless and until the bidder is being considered for award on the item(s) represented by the sample. Samples shall be evaluated for the characteristics listed in the solicitation. A written record of the evaluation findings shall be made. Bid samples received by the National Tools

Center shall be evaluated in the Central Office by a team consisting of representatives from the procurement, quality control, and specification management activities. When laboratory support is required, the QAS will arrange for the testing and the samples shall be hand-carried or sent by an appropriate means of transportation.

(e) *Approved samples.* (1) Upon award of contract, the contracting officer shall forward a copy of GSA form 6419, Transmittal of Contract Award Data, to the sample custodian who shall tag the approved samples showing the contract number and the contract period. When there is only one sample, it shall be hand-carried or sent by an appropriate means of transportation to the manufacturing plant marked to the attention of the QAS. Where there are two samples, one of the identical samples shall be retained in the bid sample room until performance is completed and the other shall be forwarded as stated above. The sample sent shall have the tag secured by wire with a lead seal. The sample custodian shall notify the Quality Control Division of sample shipment by furnishing a copy of GSA form 6334.

(2) Upon completion of all deliveries/shipments and inspections under the contract, the samples shall be returned to the supplier at his expense if so indicated on GSA form 434, Sample Record Sheet. Other samples are to be treated as Government property for utilization or disposal, except in those instances where the contracting officer has indicated that they may be reapplied to a succeeding solicitation, the sample shall be retained in the bid sample room.

(f) *Disposition of other samples.* (1) Bid samples rejected or untested shall be returned to the supplier at his expense, if so indicated on GSA form 434, Sample Record Sheet. The others will be treated as Government property for utilization or disposal.

(2) Bid samples consumed or destroyed by tests will be disposed of as scrap unless the supplier has requested their return.

(3) Bid samples determined to be received late in accordance with FPR 1-2.303 shall be held until awards are made and returned to the offeror, freight collect, unless other disposition is requested or agreed to by the bidder.

2. Section 5A-2.402(b) is revised as follows:

§ 5A-2.402 Opening of bids.

(b) All bids shall be opened by the contracting officer or his designee responsible for the procurement. The designee shall be a fully qualified em-

ployee of the contracting office. However, upon authorization by the Head of the Service or Staff Office involved, and the Director of Public Services (AVS), bids may be opened by selected Business Service Center personnel. Normally, this authorization will be requested only when the geographic distance separating the Business Service Center where bids are to be delivered and the contracting office makes it impracticable for the contracting officer or his designee to be present to open bids.

§§ 5A-2.407-73 through §§ 5A.4077-77 [Deleted]

3. Sections 5A-2.407-73, 5A-2.407-74, 5A-2.407-75, 5A-2.407-76, and 5A-2.407-77 are deleted.

4. Section 5A-2.407-84 is amended as follows:

§ 5A-2.407-84 Notification of proposed substantial awards and awards involving congressional interest.

(d) *Notification procedure.* (1) The Director (or his equivalent) of the procurement activity (Central Office or regional office) shall be responsible for submitting directly to the Director of Congressional Affairs (AK) complete and factual data pertinent to any proposed award of the type described in (a), above.

(2) Regional offices (except Region 3) and the Office Supplies and Paper Products Division (FPO) (New York) shall prepare GSA form 2932 and transmit the notification directly to the Director of Congressional Affairs (AK) by facsimile machine except as shown in (4), below.

(i) Telephone numbers for transmittal of facsimile messages of the notifications are as follows (area code 202): 472-1217; 632-3626; 632-7934; 632-7944; and 632-7945.

(ii) Messages should be directed to the attention of AK, GS Building, Room 6114.

(3) Central Office (except FPO) and Region 3 procurement activities shall prepare GSA form 2932 and transmit the notification (original only) directly to the Director of Congressional Affairs (AK). The notification(s) shall be placed in a messenger envelope and addressed as follows: "Please Hand-Carry Attention: AK, GS Bldg. Room 6114".

(4) Notifications covering regional and FPO proposed awards which require Central Office concurrence or approval pursuant to the GSA Delegations of Authority Manual (ADM P 5450.39A) shall be submitted as part of the case file to the Central Office. The notification shall be transmitted to

the Director of Congressional Affairs (AK) by the office rendering concurrence in the proposed award.

(e) *Release of awards.* (1) Unless notified to the contrary, commodity centers and regional and Central Office procurement activities may release awards of the type described in (d) (2) through (4), above, or information pertinent thereto, upon the expiration of 2 full workdays (48 hours) after the time and date of transmittal of the GSA form 2932 or the facsimile message to the Director of Congressional Affairs (AK).

(2) The procurement activities shall be responsible for submission of a copy of GSA form 2932, marked COPY, to the Value Management and Experimental Techniques Division (FCV) after release of the award. The notification copy shall indicate the date of award and include the contract number assigned.

(3) Preaward release inquiries from offerors shall be processed in accordance with § 5A-2.407-1(c).

(f) Proposed exigency or emergency awards and cases where the acceptance time in an offer is about to expire.

(1) The procurement activities shall transmit notifications as determined by their director (or his equivalent) directly to the Director of Congressional Affairs (AK) by telephone (566-1250), followed by a completed GSA form 2932 to confirm the oral notification.

(2) Release of notifications which require priority processing by the Director of Congressional Affairs (AK) shall be completed at the time and date specified by AK.

PART 5A-3—PROCUREMENT BY NEGOTIATION

Subpart 5A-3.2—Circumstances Permitting Negotiation

1. Section 5A-3.202(b) is revised as follows:

§ 5A-3.202 Public exigency.

(b) Military purchase requests citing an issue priority designator 01 through 06 inclusive, assigned in accordance with DOD Uniform Materiel Movement and Issue Priority System (UMMIPS) as prescribed by DOD Directive 4410.6, and civilian agency purchase requests citing a priority designator 03 or 06, prescribed by the FED-STRIP Operating Guide, ch. 2-15, shall be considered as identifying a circumstance within the purview of § 1-3.202 and as constituting the required statement of justification to support

the findings and determination to be made by the contracting officer. These issue priority designators are to be generated and provided only by the requisitioning activity to a requestor and cannot be generated by anyone else for the purpose of conforming or upgrading the priority designator to a requested delivery date. While circumstances may justify public exigency negotiation of requirements on a military purchase request citing an issue priority designator 07 through 15, or on a civilian executive agency purchase request citing an issue priority designator 08 or 15, the specific circumstances justifying use of this authority must be set forth in the required determination and findings.

2. Section 5A-3.203 is revised as follows:

§ 5A-3.203 Purchases not in excess of \$10,000.

When determining whether the amount in a transaction does not exceed \$10,000, the full purchase price is the controlling factor. Any prompt payment discount or trade-in value of an article to be offered in exchange is not to be deducted when making this determination.

Subpart 5A-3.4—Types of Contracts

Section 5A-3.408 is revised as follows:

§ 5A-3.408 Letter contract.

Letter contracts shall not be used unless it is determined that no other type of contract is suitable, and prior approval has been obtained from the head of the procuring activity, as defined in § 5A-1.206, to enter into such a contract. In addition, the requirements of § 1-3.408 are applicable to letter contracts.

Subpart 5A-3.12—Cost Accounting Standards

Section 5A-3.1210 is revised as follows:

§ 5A-3.1210 Cost Accounting Standards Board report.

(a) All FSS activities having procurement responsibility shall, within 60 days after the close of each calendar year, submit a report to the Assistant Commissioner for Procurement, Attn: FPP, in accordance with the requirements of § 1-3.1210. Negative reports are required.

(b) The Policy and Procedures Division (FPP) is responsible for consolidating this report within FSS and submitting it to the Office of Acquisition Policy, Federal Procurement Regulations Division, within 90 calendar days

PART 5A-72 PROCUREMENT OF STOCK ITEMS

The table of contents for part 5A-72 is amended to add the following new entry:

Sec.
5A-72.307 Procurement of stainless steel flatware for Department of Defense.

Subpart 5A-72.2—Requirements Contracts For Stock Replenishment

1. Section 5A-72.202 is amended by revising paragraph (d) and adding paragraph (g), as follows:

§ 5A-72.202 Specifications.

(d) Directors of procuring activities may authorize exceptions from the requirement for use of item purchase descriptions when the purchase value is \$5,000 or less, provided the product to

be purchased is known to meet the applicable specifications or, if not known, is a good quality off-the-shelf product.

(g) Every effort shall be made to obtain bid prices based on the unit of issue as shown on the item purchase description (IPD). When bid prices are requested for other than the unit of issue available from stock, the contracting officer shall indicate the unit of purchase and the unit of issue, in parentheses, immediately below the unit of purchase on solicitations and resultant contractual documents as shown in the following example. Contract provisions shall require that the contractor show the unit of purchase and the unit of issue on all invoices and that shipping containers be marked with the unit of purchase and unit of issue, as required by Federal Standard No. 123 (see § 5A-7.103-61).

Example:

Item No.	Supplies/services	Quantity	Unit	Unit Price
1.....	4020-00-174-1229 Twine, cotton, wrapping (1/4 lb balls).	5,000.....	Pound (ba)	\$.....
2.....	4020-00-782-5573 Twine, cotton, wrapping (5-6 1/2 lb cones).	60,000.....	Pound (ce.).....	\$.....

§ 5A-72.218 [Amended]

2. Section 5A-72.218 is amended by deleting and reserving paragraphs (c) and (d).

Subpart 5A-72.3—Special Instructions Regarding Selected Commodities

Section 5A-72.307 is added as follows:

§ 5A-72.307 Procurement of stainless steel flatware for Department of Defense.

(a) Since the following stock items are issued almost exclusively to DOD, only domestic source end products of these stainless steel flatware items shall be procured for the following national stock numbers (NSN's). Also, nonstock items of stainless steel flatware purchased for DOD shall be domestic source end products.

7340-00-060-6057—7340-00-241-8171.
7340-00-205-3340—7340-00-559-8357.
7340-00-205-3341—7340-00-688-1055.
7340-00-241-8169—7340-00-721-6316.
7340-00-241-8170—7340-00-721-6971.

(b) The following provision shall be included in solicitations (both require-

ments type and definite quantity) for the above items:

OFFERS MUST BE FOR DOMESTIC SOURCE END PRODUCTS

In accordance with section 823 of Pub. L. 95-111, award will be made for domestic source end products only. Bids offering foreign source end products will be rejected as nonresponsive.
(End of provision)

(c) Supply support for the above items will continue to be through the GSA supply distribution facilities. In addition, when requirements contracts are utilized, the scope of contract provisions set forth in § 5A-7.103-82 shall be modified to indicate "the normal supply requirements of the Department of Defense" in lieu of "the General Services Administration normal supply requirements."

(d) The restriction prescribed for the procurement of stainless steel flatware items for DOD does not by itself justify negotiation. Such procurements shall be made in accordance with the rules for formal advertising unless one

of the circumstances permitting negotiation exists.

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A-73.2 Preparation and Issuance of Solicitations

§ 5A-73.217-4 [Amended]

The parenthetical phrase in paragraph (a)(3) of the "Catalogs and/or Pricelists" clause in § 5A-73.217-4(a) is revised to read "(See par. 1 under 'Certifications,' page 2 of SF 33)."

PART 5A-76—EXHIBITS

Subpart 5A-76.2—Distribution of Documents

§ 5A-76.201-7 [Amended]

Section 5A-76.201-7 is revised to update instructions regarding the distribution of purchase orders applicable to stock replenishment contracts.

Subpart 5A-76.3—Miscellaneous Exhibits

§ 5A-76.320 [Amended]

Section 5A-76.320 is amended to add a purchase order code applicable to the procurement of vehicles for GSA motor pools.

Subpart 5A-76.4—Procurement Assignments

§§ 5A-76.402, 5A-76.403, 5A-76.404, and 5A-76.405 [Amended]

Sections 5A-76.402, 5A-76.403, 5A-76.404, and 5A-76.405 are revised to reflect current procurement assignments.

NOTE.—Copies of the new and revised forms illustrated in Part 5A-16 and copies of the revised exhibits shown in Part 5A-76 are filed with the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: September 29, 1978.

ROBERT P. GRAHAM,
Commissioner, Federal
Supply Service.

[FR Doc. 78-31075 Filed 11-2-78; 8:45 am]

[4510-27-M]

**Title 41—Public Contract and
Property Management**

**CHAPTER 60—OFFICE OF FEDERAL
CONTRACT COMPLIANCE PRO-
GRAMS, EQUAL EMPLOYMENT OP-
PORTUNITY, DEPARTMENT OF
LABOR**

**COMPLIANCE RESPONSIBILITY FOR
EQUAL EMPLOYMENT OPPORTUNITY**

Final Rule; Correction

AGENCY: Office of Federal Contract Compliance Programs, Department of Labor.

ACTION: Final rule, correction.

SUMMARY: On October 20, 1978, the Department of Labor published a final rule (43 FR 49240) which amended 41 CFR chapter 60 to reflect the consolidated functions of the Office of Federal Contract Compliance Programs authorized under Executive Order 12086. This notice makes corrections to the regulations published on October 20, 1978.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9426.

SUPPLEMENTARY INFORMATION: On October 5, 1978, President Carter signed Executive Order 12086 which consolidates the contract compliance program under Executive Order 11246, as amended, into the Department of Labor. On October 20, 1978, the Department of Labor published in the FEDERAL REGISTER (43 FR 49240) amendments to 41 CFR chapter 60 to reflect the consolidation. The regulations published on October 20, 1978, were not substantive in nature. Rather, they were designed simply to eliminate confusion which could result if the public was not informed of new procedures and places resulting from the consolidation. Upon review of the October 20, 1978, publication, the Department of Labor has discovered certain typographical errors which must be corrected and additional changes

which should be made to the regulations in order to reflect the consolidation. Those corrections and changes are contained in this correction notice.

RAY MARSHALL,
Secretary of Labor.
CHARLES E. PUGH,
Acting Deputy Assistant Secre-
tary, Employment Standards
Administration.

RICHARD J. DEVINE,
Deputy Director, OFCCP.

OCTOBER 31, 1978.

**PART 60-1—OBLIGATIONS OF CON-
TRACTORS AND SUBCONTRACTORS**

§ 60-1.5 [Amended]

1. In § 60-1.5(a)(2) the ninth line is corrected by adding "(" between the phrase "ments" and the comma.

§ 60-1.8 [Amended]

2. In § 60-1.8(b) on the fourth line "of" is corrected to "or".

§ 60-1.20 [Amended]

3. a. In § 60-1.20(b) on the fourteenth line "of the commitment" is inserted after "approval" and before the comma.

b. In § 60-1.20(d) the seventeenth and eighteenth lines are corrected by deleting the words "by the compliance agency".

§ 60-1.21 [Amended]

4. In § 60-1.21 the fourth line is corrected by deleting the words "agency or the".

§ 60-1.26 [Amended]

5. In § 60-1.26(a)(2) on the nineteenth and twentieth lines "compliance agency" is corrected to "OFCCP".

§ 60-1.40 [Amended]

6. In § 60-1.40(a) on the thirteenth line "and each prime" is deleted and "shall develop a written affirmative action compliance program for each of its establishments. Each" is inserted after the comma and before "contractor".

**PART 60-2—AFFIRMATIVE ACTION
PROGRAMS**

§ 60-2.2 [Amended]

7. a. In § 60-2.2(a) on the fourth line "his" is corrected to "its", and on the thirteenth line the word "equal" is inserted immediately after the word "the".

b. In § 60-2.2(b) on the ninth line "his" is corrected to "its", on the seventeenth, twenty-third, twenty-eighth, and thirty-second lines the hyphen be-

tween "contractor" and "bidder" is corrected to "/", on the eighteenth line the comma after "contractor" is corrected to "and", on the nineteenth line the words "and the compliance agency" are deleted, on the thirty-ninth line "§ 601.26" is corrected to "§ 60-1.26", and on the fifty-second line the word "his" is corrected to "its".

c. In § 60-2.2(b) on the fifty-fifth line the period is corrected to a colon and the following is inserted after the colon: "Provided further, That a contractor/bidder may not be declared nonresponsive more than twice due to past noncompliance with the equal opportunity clause at a particular establishment or facility without receiving prior notice and an opportunity for a hearing."

d. In § 60-2.2(c)(1)(i) on the second line "order" is corrected to "Order".

e. In § 60-2.2(c)(1)(iv) on the first line "dated" is corrected to "date".

§ 60-2.10 [Amended]

8. In § 60-2.10 on the fourth line "himself" is corrected to "itself", and on the twenty-first line "has" is corrected to "its".

§ 60-2.11 [Amended]

9. In § 60-2.11 on the third line "order programs" is corrected to "Order program", on the ninth line the semicolon is corrected to a colon, on the ninth line "officials" is corrected to "Officials", and on the twenty-second line "his" is corrected to "its".

§ 60-2.12 [Amended]

10. a. In § 60-2.12(a) on the fourth, sixth, seventh, tenth and eleventh lines "his" is corrected to "its".

b. In § 60-2.12(k) on the second and fifth lines "his" is corrected to "its".

c. In § 60-2.12(1) on the second line the words "the compliance agency or" are deleted.

d. In § 60-2.12(n) on the fifth line the word "upon" is added after the phrase "grams".

§ 60-2.14 [Amended]

11. In § 60-2.14 on the third line "he" is corrected to "it", and on the third, seventh, eighth, and ninth lines "his" is corrected to "its".

§ 60-2.20 [Amended]

12. In § 60-2.20(a) on the third line "officers" is corrected to "officer's".

§ 60-2.21 [Amended]

13. a. In § 60-2.21(a)(11) on the second line "contractors" is corrected to "contractor's" and on the fourth line "his" is corrected to "its".

b. In § 60-2.21(b) on the second line "his" is corrected to "its".

c. In § 60-2.21(b)(4) on the fourth line "his" is corrected to "its".

§ 60-2.22 [Amended]

14. a. In § 60-2.22(a) on the fifth line "alinement" is corrected to "alignment" and on the ninth line "executive" is corrected to "execute".

b. In § 60-2.22(b)(7) on the second line "area" is corrected to "areas".

c. In § 60-2.22(b)(7)(ii) on the third line "his" is corrected to "its".

§ 60-2.24 [Amended]

15. a. In § 60-2.24(e)(1) on the thirty-second line "individuas" is corrected to "individuals".

b. In § 60-2.24(e)(7)(ii) on the third line "females" is corrected to "female".

§ 60-2.26 [Amended]

16. In § 60-2.26(f) on the sixth line "minority" is corrected to "minorities".

§ 60-2.30 [Amended]

17. In § 60-2.30 on the third line "he" is corrected to "it" and on the third line "his" is corrected to "its".

PART 60-4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

§ 60-4.1 [Amended]

18. In § 60-4.1 on the twelfth line "established" is corrected to "establishes".

§ 60-4.2 [Amended]

19. In § 60-4.2(a) on the nineteenth line a comma is inserted after the word "loan".

§ 60-4.3 [Amended]

20. a. In § 60-4.3(a) on the twenty-seventh line "order" is corrected to "Order".

§ 60-4.3 [Amended]

b. In § 60-4.3 in the Standard Federal Equal Employment Opportunity Construction Contract Specifications in paragraph 3 on the fourth line "are" is corrected to "area".

§ 60-4.5 [Amended]

21. In § 60-4.5(a)(6) on the third line "labor a" is corrected to "a labor".

§ 60-4.6 [Amended]

22. In § 60-4.6 on the first line "director" is corrected to "Director".

§ 60-4.8 [Amended]

23. In § 60-4.8 on the eighth line "director" is corrected to "Director".

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

§ 60-30.2 [Amended]

24. In § 60-30.2 in the heading a comma is inserted between "waiver" and "modification".

§ 60-30.1 [Amended]

25. a. In § 60-30.11(c) on the eighth line "shall be permitted" is inserted after "party".

b. In § 60-30.11(e)(3) on the fourth line "hearing examiner" is corrected to "administrative law judge" and on the eleventh line "subpena" is corrected to "subpoena".

§ 60-30.13 [Amended]

26. a. In § 60-30.13(c)(1) on the third and fourth lines "or that agreement cannot be reached" is deleted.

b. In § 60-30.13(c)(2) on the second line "agreement cannot be reached." is added after "that".

§ 60-30.14 [Amended]

27. In § 60-30.14 on the ninth line "paper" is corrected to "papers".

§ 60-30.15 [Amended]

28. a. In § 60-30.15 on the second and third lines "to the compliance agency or" is deleted.

b. In § 60-30.15(a) on the first line "confernces" is corrected to "conferences".

c. In § 60-30.15(m) on the first line "subpenas" is corrected to "subpoenas".

§ 60-30.17 [Amended]

29. In § 60-30.17(a) on the seventh line "subpena" is corrected to "subpoena".

§ 60-30.19 [Amended]

30. In § 60-30.19(b) on the sixth and seventh lines "compliance agency or the" is deleted.

§ 60-30.23 [Amended]

31. In § 60-30.23(c) on the second line "proceedings" is corrected to "proceeding".

§ 60-30.24 [Amended]

32. a. In § 60-30.24(a)(3) on the third line "paragraph" is corrected to "section".

b. In § 60-30.24(b)(1) on the nineteenth line "paragraph" is corrected to "section".

PART 60-40—EXAMINATION AND COPYING OF OFCCP DOCUMENTS

33. The "Authority" section is corrected to read as follows: "AUTHORITY: Executive Order 11246, as amended by Executive Order 11375, and as amended by Executive Order 12086; 5 U.S.C. 552."

§ 60-40.1 [Amended]

34. In § 60-40.1 on the ninth line "labor" is corrected to "Labor".

§ 60-40.5 [Amended]

35. In § 60-40.5 on the first line "copy" is corrected to "copying".

PART 60-50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

36. In the "Authority" section the second line is corrected by deleting the period after 32 F.R. 14303 and adding ", as amended by E.O. 12086."

37. The "Source" section preceding section 60-50.1 is deleted.

§ 60-50.1 [Amended]

38. In § 60-50.1 the source material at the end of the section is deleted.

PART 60-60—CONTRACTOR EVALUATION PROCEDURES FOR CONTRACTORS FOR SUPPLIES AND SERVICES

39. In the heading for Part 60-60 "60-60.9 Attachments." is deleted.

§ 60-60.2 [Amended]

40. In § 60-60.2 on the twelfth line "OFCC" is corrected to "OFCCP".

§ 60-60.3 [Amended]

41. In § 60-60.3 on the seventeenth through twentieth lines "(The standard compliance review report will be published on or before the effective date of this part.)" is deleted.

§ 60-60.4 [Amended]

42. In § 60-60.4(d) on the first line "in-" is corrected to "In-", on the thirteenth line "contractors" is corrected to "contractor's", and on the twentieth and twenty-first lines "OFCC" is corrected to "OFCCP".

§ 60-60.7 [Amended]

43. In § 60-60.7(a) on the third line "OFCC" is corrected to "OFCCP".

§ 60-60.9 [Deleted]

44. All of § 60-60.9 is deleted.

PART 60-250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

45. In the heading for Part 60-250 a period is inserted after the word "Definitions".

46. In the "Authority" section of the heading for Part 60-250 on the fourth line the comma after "U.S.C. 2012" is corrected to a period and "as amended by E.O. 12086" is deleted.

§ 60-250.2 [Amended]

47. In § 60-250.2:

a. In the definition of "Government contract" on the eighteenth line a hyphen is inserted between "ally" and "assisted".

b. In the definition of "Person" on the second line the comma after "partnership" is deleted.

c. In the definition of "Prime contractor" on the fifth line "act" is corrected to "Act".

d. In the definition of "Rules, regulations, and relevant orders of the Secretary of Labor" on the seventh line "act" is corrected to "Act".

e. In the definition of "Subcontractor" on the fifth line "act" is corrected to "Act".

f. In the definition of "Veteran of the Vietnam era" on the fifteenth and seventeenth lines "act" is corrected to "Act".

§ 60-250.3 [Amended]

48. a. In § 60-250.3(a)(2) on the fifth line the hyphen between "open" and "end" is deleted.

b. In § 60-250.3(a)(5) on the thirteenth line "act" is corrected to "Act".

c. In § 60-250.3(b)(1) on the nineteenth line "act" is corrected to "Act".

d. In § 60-250.3(b)(2) on the eighth line "it" is corrected to "its".

e. In § 60-250.3(c) on the twelfth line "act" is corrected to "Act".

§ 60-250.4 [Amended]

49. a. In § 60-250.4(b) on the eleventh line "corporated" is corrected to "corporate".

b. In § 60-250.4(i) on the fourth line "act" is corrected to "Act".

c. In § 60-250.4(j) on the sixth line "act" is corrected to "Act".

d. In § 60-250.4(l) on the tenth line "Era" is corrected to "era".

§ 60-250.5 [Amended]

50. In § 60-250.5(d) on the twenty-seventh line "act" is corrected to "Act".

§ 60-250.6 [Amended]

51. a. In § 60-250.6(c)(2) on the sixth line "tran-" is corrected to "train-".

b. In § 60-250.6(c)(3)(iii) on the second line "act" is corrected to "Act".

c. In § 60-250.6(f)(4)(i) on the eighth line "(ii)" begins a new paragraph.

d. In § 60-250.6(f)(5) on the thirteenth line "providng" is corrected to "providing".

e. In § 60-250.6(h)(3)(v) on the first line "Insure" is corrected to "Ensure".

§ 60-250.25 [Amended]

52. In § 60-250.25 on the seventh line "Era" is added between "Vietnam" and "Veteran's", and "Readadjust-" is corrected to "Readjust-".

§ 60-250.26 [Amended]

53. In § 60-250.26(g)(3) on the sixth line "opportunity" is corrected to "opportunity".

§ 60-250.29 [Amended]

54. a. In § 60-250.29(b)(1) on the third line "Veterans" is corrected to "Vietnam", and on the third and fourth lines "Veterans" is corrected to "Veterans".

b. In § 60-250.29(b)(2) on the sixth line "Equal" is corrected to "equal".

PART 60-741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

55. In the heading of Part 60-741 a period is added after "Definitions".

56. In the "Authority" section of the heading of Part 60-741 on the first line the period after the word "Authority" is corrected to a colon, and on the fourth and fifth lines a period is inserted after "11758" and "as amended by E.O. 12086" is deleted.

§ 60-741.3 [Amended]

57. In § 60-741.3(a)(2) on the fifth line the hyphen between "open" and "end" is deleted.

§ 60-741.6 [Amended]

58. a. In § 60-741.6(f) on the eighth line "based" is corrected to "Based".

b. In § 60-741.6(h)(3)(iv) on the fourth line a comma is added after "educational".

§ 60-741.7 [Amended]

59. In § 60-741.7(d) on the sixth line "guides" is corrected to "Guides".

§ 60-741.26 [Amended]

60. a. In § 60-741.26(b) on the second line "if" is corrected to "is".

b. In § 60-741.26(f) on the first line a period is inserted after "Reserved".

§ 60-741.54 [Amended]

61. a. In § 60-741.54, Appendix C, paragraph (1), on the sixth line "by the agency," is deleted.

b. In § 60-741.54, Appendix C, paragraph 3, on the eighth line "persons" is corrected to "person(s)".

[FR Doc. 78-31179 Filed 11-2-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1345]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

AGENCY: Interstate Commerce Commission.

ACTION: Appointment of Embargo Agents (Service Order No. 1345).

SUMMARY: Service Order No. 1345 appoints Joel E. Burns and Robert S. Turkington as agents of the Commission with authority to issue embargoes against railroad freight traffic movements when car accumulations, congestion, or other interference of a temporary nature require such action.

DATES: Effective 11:59 p.m., October 31, 1978. Expires 11:59 p.m., October 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles 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.

Decided October 31, 1978.

Whenever any carrier by railroad, subject to Part I of the Interstate Commerce Act, is unable to control freight traffic movements, because of car accumulations, threatened congestions, or other interferences of a temporary nature compel restrictions against car movements, car service will be promoted in the interest of the public and the commerce of the people by the appointment of agents with authority to direct the placement of embargoes; that notice and public procedure 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,

§ 1033.1345 Car Service Order No. 1345.

(a) *Appointment of Embargo Agents.* Joel E. Burns, Director, and Robert S. Turkington, Assistant Director,

Bureau of Operations, Interstate Commerce Commission, Washington, D.C., are hereby appointed Agents of the Interstate Commerce Commission and vested with authority to direct the placement of embargoes by railroads at such points where freight cars are being unduly delayed due to accumulations, congestions, or emergency situations.

(b) Embargoes placed under this order shall be at the direction of the Agents of the Commission and shall be published through the Association of American Railroads, Car Service Division, and in conformity with Rule 16 of the "Code of Car Hire Rules and Interpretations—Freight" of the Association of American Railroads and of Circular CSD-87, Sixth Revision, both published in the Official Railway Equipment Register, ICC-R.E.R. No. 409, issued by W. J. Trezise, or successive issues or reissues thereof.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Rules, Regulations, and Practices Suspended.* The operation of all rules, regulations, and practices insofar as they conflict with the provisions of this order, is hereby suspended.

(e) *Effective date.* This order shall become effective at 11:59 p.m., October 31, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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. 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 a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission (Chairman O'Neal, Commissioners Brown, Stafford, Gresham and Clapp; Vice Chairman Christian did not participate).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 31178 Filed 11-2-78; 8:45 am]

[7035-01-M]

[Service Order No. 1346]

PART 1033—CAR SERVICE

Mercersburg Railway Authorized To Operate Over USRA Line No. 206, Former Mercersburg Secondary Track of Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1346).

SUMMARY: The Mercersburg Railway is authorized by Service Order No. 1346 to operate USRA Line No. 206 between Marion, Pa., and Mercersburg, Pa. The operation of this line by the Mercersburg Railway has been authorized by the Commonwealth of Pennsylvania, which is replacing Consolidated Rail Corp. as the designated operator.

DATES: Effective 12:01 a.m., November 1, 1978. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles 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.

Decided October 31, 1978.

Railroad service on the former Mercersburg Secondary Track of Consolidated Rail Corp. (CR) identified in the Final System Plan of the Reorganization of the Northeastern Railroads as USRA Line No. 206 between former CR milepost 59.1 at Marion (South Penn Jct.), Pa., and former CR milepost 72.7 at Mercersburg, Pa., will be discontinued. The operation of this line by the Mercersburg Railway has been authorized by the Commonwealth of Pennsylvania which is replacing CR as the designated operator. An application seeking authority to operate as the designated operator of this line will be filed by the Mercersburg Railway. If service over this line is not continued, numerous shippers on the line will be left without essential rail service.

It is the opinion of the Commission that an emergency exists requiring the operation by Mercersburg Railway over tracks formerly operated by CR in the interest of the public; that notice and public procedure 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,

§ 1033.1346 Car Service Order No. 1346.

(a) *Mercersburg Railway authorized to operate Over USRA Line No. 206, former Mercersburg Secondary Track of Consolidated Rail Corp.* The Mercersburg Railway is authorized to operate over tracks of USRA Line No. 206, formerly known as Mercersburg Secondary Track of the Consolidated Rail Corp. (CR) between former CR milepost 59.1 at Marion (South Penn Jct.), Pa., and former CR milepost 72.7 at Mercersburg, Pa., a distance of approximately 13.6 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of the Mercersburg Railway seeking authority to operate over these tracks.

(d) *Rates applicable.* Inasmuch as this operation by the Mercersburg Railway over tracks previously operated by the CR is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via CR, until tariffs naming rates and routes specifically applicable via the Mercersburg Railway become effective.

(e) In transporting traffic over these lines, the Mercersburg Railway and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by an between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., November 1, 1978.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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. 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 Washing-

ton, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-31177 Filed 11-2-78; 8:45 am]

[7035-01-M]

[Service Order No. 1344]

PART 1034—ROUTING OF TRAFFIC
Rerouting of Traffic; Appointment of Agents

AGENCY: Interstate Commerce Commission.

ACTION: Appointment of Rerouting Agents (Service Order No. 1344).

SUMMARY: Service Order No. 1344 appoints Joel E. Burns, and Robert S. Turkington as agents of the Commission with authority to issue orders authorizing railroads to reroute traffic whenever a railroad is unable to operate over its normal routes.

DATES: Effective 11:59 p.m. October 31, 1978. Expires 11:59 p.m., October 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Inter-

state Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:
The Order is printed in full below.

Decided: October 30, 1978.

Whenever any carrier by railroad subject to Part I of the Interstate Commerce Act, is, for any reason, unable to transport traffic offered, car service will be promoted in the interest of the public and the commerce of the people by the appointment of agents with authority to reroute and divert such traffic; that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1034.1344 Car Service Order No. 1344.

(a) *Rerouting of traffic—appointment of agents.* Joel E. Burns, Director, and Robert S. Turkington, Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., are hereby appointed Agents of the Interstate Commerce Commission and vested with authority to authorized diversion and rerouting of loaded and empty freight cars from and to any point in the United States whenever, in their opinion, an emer-

gency exists whereby any railroad is unable to move traffic currently over its lines.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., October 31, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C 1(10-17).)

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. 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 a copy with the Director, Office of the Federal Register.

By the Commission (Chairman O'Neal, Commissioners Brown, Stafford, Gresham and Clapp; Vice Chairman Christian did not participate).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-31176 Filed 11-2-78; 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.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

HANDLING OF ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would reduce the weight obligation of almond material that handlers—those regulated by the marketing order for California almonds—must deliver to nonhuman consumption outlets for quality control. This rule applies only to the 1978-79 crop year, and is intended to augment the very short existing supplies of California almonds.

DATES: Written comments to this proposal must be received by November 13, 1978.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be available for public inspection at the office of the Hearing Clerk during business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is given to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.474), by revising § 981.442. The subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based on a recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of al-

monds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of 2 percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

Section 981.442 specifies the procedures for implementing § 981.42. Section 981.442(a)(4) currently provides that the quantity of inedible kernels in each variety in excess of 1½ percent of the kernel weight received, constitutes a handler's weight obligation to be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The proposal is to revise § 981.442(a)(4) for the 1978-79 crop year so that the quantity of inedible kernels in each variety in excess of 3 percent, instead of the current 1½ percent, would constitute a handler's weight obligation.

In its October 13, 1978, meeting, the Almond Board of California said that the change was needed primarily to allow more almonds to be shipped to the trade. The Board believes the 1978 almond crop will be less than the previous forecast of 205,000,000 pounds (kernel weight basis). When compared with last year's crop of 313,000,000 pounds, the current estimate of 1978 production represents a severe shortage of almonds. The Board also noted that with a tolerance of 3 percent there would be no significant reduction in the quality of almonds offered to the public as a result of its proposed change.

Almost all 1978 crop almonds have been received and are currently being processed, and handlers need to know as soon as possible what the disposition obligation tolerance will be for this crop year. Therefore, only a period of 10 days after publication in the FEDERAL REGISTER will be given for interested persons to comment.

The proposal is to revise § 981.442(a)(4) to read as follows:

§ 981.442 Quality control.

(4) *Disposition obligation.* The weight of inedible kernels in excess of 1½ percent of the kernel weight reported to the Board of any variety received by a handler shall constitute his disposition obligation, except that for the 1978-79 crop year ending June 30, 1979, this percentage shall be 3 percent. If a variety other than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

Dated: October 31, 1978.

CHARLES R. BRADER,

Deputy Director,
Fruit and Vegetable Division.

[FR Doc. 78-31187 Filed 11-2-78; 8:45 am]

[3410-02-M]

[7 CFR Part 1099]

MILK IN THE PADUCAH, KY., MARKETING AREA

Proposed Suspension of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for November 1978 through March 1979, an order provision that limits the quantity of producer milk that may be diverted to a plant for manufacturing uses to 15 percent of a handler's receipts at milk bottling plants. The proposed suspension would result in a 25-percent limit on such diversions during those months. The action was requested by a cooperative association to assure the efficient disposition of milk that is not needed for fluid use, and to maintain pool status for dairy farmers regularly associated with the Paducah market.

DATE: Comments are due on or before November 9, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing

Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provision of the order regulating the handling of milk in the Paducah, Ky., marketing area is being considered for the period November 1978 through March 1979:

In § 1099.13(c) (2) and (3), the words "in any of the months of April through August and 15 percent in other months."

All persons who want to send written data, views, or arguments about the proposed suspension should send four copies of them to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 9, 1978.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include November 1978 in the suspension period.

The documents that are sent will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

STATEMENT OF CONSIDERATION

The proposed suspension would make inoperative for the period November 1978 through March 1979, the provisions that limit diversions of milk to nonpool plants to 15 percent of the milk physically received at pool plants. A 25-percent limit that is applicable during the months of April through August would apply during the suspension period. Dairymen, Inc., requested that the 15 percent limit on diversions to nonpool plants during September through March be permanently suspended or terminated effective November 1, 1978, or that a hearing be called to amend the order. However, this proposed suspension is limited to the months of November 1978 through March 1979.

Dairymen, Inc., indicates that under current marketing conditions the 15-percent limitation on diversions to nonpool plants does not facilitate the economic disposition of reserve milk supplies. The cooperative states that the proposed action would retain a 25-percent limit on such diversions, and

that such limit would prevent the association of additional milk supplies with the market.

The cooperative points out that there are only two distributing plants fully regulated under the Paducah order, and that they process mostly Class I milk. According to the cooperative, the volumes of milk required by these plants vary widely on a day-to-day basis, which in turn requires a relatively large reserve supply of milk. Dairymen, Inc., maintains that the diversion of milk from farms to nonpool plants is the most efficient means of handling the reserve supplies when not needed by the distributing plants. The cooperative claims that the present 15-percent limit on such diversions during November through March does not facilitate the efficient disposition of reserve supplies of milk that are associated with the market. Accordingly, Dairymen, Inc., has to receive some milk at a pool plant, and then reload and ship it to a nonpool plant to maintain the benefits of pooling for some of its producers who have long been associated with the Paducah order. The cooperative indicates that such handling of the milk is costly and represents an inefficient method of maintaining pool status for the producers involved.

Signed at Washington D.C., on October 31, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-31174 Filed 11-2-78; 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Part 1496]

PROCUREMENT AND SHIPMENT OF PROCESSED AGRICULTURAL COMMODITIES FOR DONATION UNDER TITLE II, PUB. L. 480

AGENCY: Commodity Credit Corporation.

ACTION: Proposed rule.

SUMMARY: This notice is to inform the public that the Secretary of Agriculture is proposing regulations governing procurement and shipment of processed agricultural commodities for donation under Title II, Pub. L. 480. In addition to the retention of the basic formula of lowest landed cost, and other factors regarding procurement and shipment, it is proposed that additional factors will be considered which could override the lowest landed cost in effect under the current system. This notice invites written comments on the proposed rule.

DATES: Comments must be received on or before January 2, 1979 to be assured of consideration.

ADDRESSES: Assistant Deputy Administrator, Commodity Operations, ASCS, USDA, Room 212-W, Administration Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Felton Overby, (ASCS), 713-226-5871, Jonnie Carpenter, (ASCS), 202-447-3995.

SUPPLEMENTARY INFORMATION: The Kansas City Agricultural Stabilization and Conservation Service Commodity Office, (KCCO) is responsible for the procurement of processed agricultural commodities donated to foreign recipients under Title II, Pub. L. 480. Such procurement is administered in accordance with requirements specified in the Code of Federal Regulations, "Public Contracts and Property Management, Chapter I," in USDA-1, as amended, "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," and CMO-1, as amended, "Specifications for Packaging and Packing of Dairy Products, Processed Grains, Salad Oil and Shortening."

Purchases are made against a general formula, which is the price of the commodity delivered to a port free alongside ship (f.a.s.), plus the cost of ocean transportation. Commodity requests are received in the Procurement and Sales Division, Donations Branch, Washington, D.C. from the Agency for International Development, (AID) or from American Voluntary Agencies, engaged in overseas relief and development, and are registered with the Advisory Committee on Voluntary Foreign Aid.

Commodity requests are forwarded to the KCCO for procurement. Periodically KCCO issues invitations to bid in order to fill requests. Offers requested from commodity vendors are on an f.a.s. vessel basis to a named port or range of ports. In addition to prices and quantities, vendors are urged to name as many ranges and ports as possible in their offer. Usually 10 days are given vendors to make offers.

During the 10 days the invitation is open, basic background information is obtained for use in bid analysis. Information includes ocean service and rates from U.S. ports to destination countries, minimum revenue or tonnage for vessel call to a port, port congestion, labor disputes, rail embargoes, and specific delivery requirements. Trade journals and published tariffs are used to determine service and rates from all coastal ranges for each commodity and foreign destination. Changes in ocean rates and services are accepted until 4 p.m. on the Friday preceding the Monday offers are due.

In accordance with the invitation to bid, offers must be received by 4 p.m. Monday for opening and evaluation. Data are entered into an automated system for the simultaneous analysis of offers, service, ocean rates, and quantities. Offers resulting in lowest landed cost to destinations requested are considered for acceptance. Price reviews of the f.a.s. offer are conducted before final awards are made. Successful offerors are notified by C.O.B. the day following opening of bids, and such information is subsequently furnished to the public via information releases.

Where contract awards list multiple ports at the same price, assignment of tonnage is made to one or more ports based on the previous 3 calendar year average of CCC processed commodity allocations.

Port allocations are subsequently furnished to the public via information releases. All commodities are offered to designated booking agents to secure ocean transportation.

Upon receipt of confirmation of ocean bookings, shipping instructions are issued to vendors by KCCO. Through contract administration and freight forwarding responsibilities, KCCO monitors shipments for all commodities.

In accordance with section 201 of the Agricultural Trade Development and Assistance Act of 1954, as amended, agricultural commodities are furnished on behalf of the people of the United States of America to meet famine or other urgent or extraordinary relief requirements; to combat malnutrition, especially in children; to promote economic and community development in friendly developing areas; and, for needy persons and non-profit school lunch and preschool feeding programs outside the United States. The most critical factor in the purchase and shipment of agricultural food commodities is timely delivery to the destination port in recipient countries.

PROPOSED RULE

Therefore, to meet the legislative requirements and objectives of the Title II, Pub. L. 480 program as mandated, considerations other than costs will be evaluated, which may override the lowest landed cost determinations under the current system, as stated above. For example, a slightly higher price would be justified if it resulted in a significantly shorter ocean transit time, reduced risk and on-time delivery. If a delivery delay is imminent via the lowest landed cost coastal range due to a strike, labor dispute, railcar shortages, congestion at U.S. port, or lack of timely ocean service, then an alternative coastal range may be selected which is next lowest in cost.

when railcars are in short supply or not available from vendor's plant to timely position the commodity free alongside ship (f.a.s.), an alternative mode of inland transportation, such as the utilization of trucks will be considered.

Historical delivery outturn data which has definitively established unsatisfactory steamship and stevedore performance will be considered. This data will include loss and/or damage of commodities at destination port; performance of the steamship company in meeting the established delivery schedule requested by the consignee; and for timely delivery of commodities.

Prior to the final selection of a coastal range or U.S. port from which commodities will be shipped, the contracting officer will determine the adequacy of the port to receive, accumulate, warehouse, handle, store, and protect the cargo.

Other factors which will be considered in this determination, will include, but are not limited to, the adequacy of the building structure, proper ventilation, freedom from insects and rodents, cleanliness and overall good housekeeping and warehousing practices.

When it is determined that the U.S. port is congested, facilities are overloaded, and a vessel would not be able to dock and pickup cargo without delay, or where labor disputes or lack of labor would not be available or prohibit the loading of the cargo onboard a vessel in a timely manner, another coastal range or port will be considered.

When any of the above proposed considerations become relevant factors in the bid analysis, additional time may be required before contract awards are made. Therefore, it is proposed that the Department have up to, but not to exceed 72 hours after bids are opened to analyze such bids and notify successful offerors.

However, notification of successful bids will be awarded as expeditiously as possible so that the full 72-hour period may not have to transpire.

In the interest of obtaining information which will assist the Secretary in establishing a procedure for the purchase and shipment of processed agricultural commodities for donation under Title II, Pub. L. 480, it is requested that respondents to this invitation for comments give careful consideration to the issues discussed above. It is especially requested that interested persons address the following issues:

A. *Timely delivery of commodities to ultimate destination.* 1. Alternative coastal ranges.

2. Alternative modes of inland transportation.

3. Alternative ocean service.

B. *Availability of rail cars.* (i.e., availability of rail cars to one or more coastal ranges for effective utilization of energy and rail equipment.)

C. *Delivery outturn history.* 1. Steamship and stevedore performance.

2. Commodity loss and damage.

D. *U.S. port facilities and conditions.* 1. Warehousing practices.

2. Ability to handle, store, and protect cargo.

E. *U.S. port congestion.* 1. Facilities overloaded.

2. Availability of labor.

Prior to establishing a procedure for the purchase and shipment of agricultural commodities donated under Title II, Pub. L. 480, the Department of Agriculture will give consideration to comments submitted in writing. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5754, South Building, 14th and Independence Avenue SW., Washington, D.C. (7 CFR 1-27(b)).

NOTE.—An approved Draft Impact Analysis is available from Ray Voelkel (ASCS) 202-447-7421.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C. on October 30, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-31133 Filed 11-2-78; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Credit Union Service Corporation

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to implement the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Act) (Pub. L. 95-22, 91 Stat. 49) which authorize Federal credit unions to invest in, to make loans to, or extend lines of credit to, organizations providing services associated with the routine operations of credit unions. This proposed rule will amend existing 12 CFR 701.27-2, Participation in Accounting Service Center.

DATES: Comment must be received on or before January 2, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Either Layne L. Bumgardner, Office of Examination and Insurance or Todd A. Okun, Office of General Counsel, at the above address. Telephone: 202-254-8760 (Mr. Bumgardner) or 202-632-4870 (Mr. Okun).

SUPPLEMENTAL INFORMATION: In proposing this rule, the Administration has relied heavily on the specific guidance provided in the House Committee Report (H.R. Rep. No. 95-23) pertaining to the authority for a Federal credit union to invest in and loan to organizations associated with the routine operation of credit unions.

The defined purpose of a credit union service corporation is not intended to provide Federal credit unions with the ability to enter into profit making ventures. Rather, a credit union service corporation is envisioned as a "venture in cooperation" which is designed to provide each of its owner credit unions with efficient, equitable, and fairly priced services. The proposed regulation is designed to allow both small and large credit unions to more fully achieve their goals by allowing them to work together in capitalizing and operating a credit union service facility. This cooperation and control over the source of credit union services will give credit unions owning stock in a credit union service corporation an alternative to the services which are provided, priced and controlled by private capital interests and which are profit motivated in nature. The purposes of a "credit union service corporation" are taken directly from H.R. Rep. No. 95-23 and are included in paragraph (b) of the proposed regulation. The only additions to the congressionally approved purposes are activities related to mortgage lending, credit card services and automated teller machine services, which have been approved by the Administration as acceptable services associated with the routine operation of credit unions. Additional purposes will be added to the listing as they are approved.

LIMITS ON INVESTMENTS IN AND LOANS TO CREDIT UNION SERVICE CORPORATIONS

(1) A Federal credit union may invest, in total, in stock or shares of a credit union service corporation in an

amount not to exceed 1 percent of the investing Federal credit union's paid-in and unimpaired capital and surplus. ((Members Shares + Undivided Earnings - Losses which may have been incurred for which there is no reserve or which have not been charged to Undivided Earnings) $\times$.01 = Maximum amount which may be invested in shares or stocks of credit union service corporations.) No other limits have been proposed regarding the capital structure of a credit union service corporation in order to give maximum flexibility in organizing the corporation. However, the Administration encourages the equitable and fair treatment of all owner credit unions participating in the corporation, regardless of the amount of their equity interest or representation on the corporation's board of directors.

(2) A Federal credit union may lend, in total, an additional 1 percent of its paid-in and unimpaired capital and surplus to those credit union service corporations in which it has invested. Lending refers to all purchases of bonds or debentures issued by credit union service corporations and all loans or lines of credit extended to credit union service corporations. (Refer to the formula in item (1) to determine the maximum amount which may be loaned by a Federal credit union to all credit union service corporations.)

(3) A Federal credit union must receive services from the credit union service corporations in which it invests. This requirement is essential to assure that a Federal credit union's investment in a credit union service corporation is used only to capitalize the providing of goods or services to itself and the other co-investors.

(4) Paragraph (e) of the proposed regulation prohibits the use of a Federal credit union from investing in, or lending to, an insurance company, trade association, liquidity facility, other financial institution, or similar organization unless the Act expressly permits the activity.

CONTRACTING WITH A CREDIT UNION SERVICE CORPORATION

The Administration envisions that credit union service corporations will enter into service contracts with their owner credit unions in the same manner as other service vendors. To assure compliance with the Act and rules and regulations it is recommended that contracts between credit unions and credit service corporations include provisions:

(1) Insuring the confidentiality of information about a given member and his transactions with the member's credit union;

(2) Assuring compliance with the Federal Credit Union Act and National

Credit Union Administration Rules and Regulations pertaining to all services being provided;

(3) Establishing liability, accountability, prompt recording and settlement for all transactions, handled by the vendor under the contract;

(4) Establishing appropriate surety and insurance coverage for all persons involved in processing transactions;

(5) Describing the services to be provided and establishing the costs of these services subject to periodic review and negotiation;

(6) Terminating, assigning and mediating the contract;

(7) Making the Federal credit union's books and records of member transactions immediately available to the Administrator or his authorized representative for examination and to the Federal credit union's supervisory committee for audit;

(8) Maintaining the individual identity of the Federal credit union for all services provided to its members; and

(9) Limiting any payments made in advance to an amount not exceeding the actual or estimated charges for a 3 month period, with amortization of any advance payments occurring within the period for which the advance was made.

APPLICATION PROCEDURES FOR CREDIT UNION SERVICE CORPORATIONS

Paragraph (c) of the proposed regulation states the application requirements for obtaining approval of the Administrator for establishing a credit union service corporation. Proposals will be submitted to the appropriate Regional Director for consideration.

Paragraph (f) outlines the requirements imposed on the Administration for promptly dealing with applications submitted for consideration. Where the submitting party is not informed of the Administrator's action on a proposal within the time frame indicated, the application will be deemed to be approved. This provision also applies to modification submitted for the Administrator's consideration after a credit union service corporation has already been formed.

EXISTING SERVICE CORPORATIONS DESIRING TO BE APPROVED AS A CREDIT UNION SERVICE CORPORATION

This proposed rule will replace the existing § 701.27-2 of the National Credit Union Administration Rules and Regulations. Therefore, all existing accounting service centers operating under the current provisions of § 701.27-2 must apply for approval as a credit union service corporation. The Administration proposes that a period of 1 year is sufficient time to effect the changes required and to process the applications of the existing accounting service centers.

The proposed rules will also replace and amend any previously approved "leeway" organizations approved by the Administration. These Corporations will also be required to apply to the Administration under the provisions of the proposed rule and comply within a 1 year time period from its effective date.

It is expected that certain service corporations owned and operated exclusively by State chartered credit unions may desire to service and receive investments from Federal credit unions. If so, these organizations will also need to file applications with the Administration for consideration and must modify their operations to comply with the proposed rule.

LAWRENCE CONNELL,
Administrator.

OCTOBER 31, 1978.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

Accordingly, it is proposed that 12 CFR 701.27-2 be revised to read as follows:

§ 701.27-2 Credit Union Service Corporation.

(a) For purposes of this section:

(1) A "credit union service corporation," an organization described at section 107(7)(I) of the Federal Credit Union Act, and a "credit union organization," as described at section 107(5)(D) of the Federal Credit Union Act, are identical entities. They are organizations incorporated under State law which are wholly-owned and controlled by credit unions. Designation as a "credit union service corporation" is contingent on Administration approval.

(2) A "Federal credit union" means a credit union chartered pursuant to section 109 of the Federal Credit Union Act, its officers, directors, employees, agents or representatives.

(b) The purpose of a credit union service corporation is to provide only those goods and services and perform only those functions that are associated with routine credit union operations. It may provide any or all of the following to its stockholder credit unions:

- (1) Data processing services;
- (2) Promotion, marketing and general management support services;
- (3) Access to sophisticated accounting systems;
- (4) Non-profit debt counseling services;
- (5) Management training and education to credit union personnel;
- (6) Services related to processing, selling or servicing mortgage loans;
- (7) Credit card services;
- (8) Automated teller machine services; and

(9) Other services, as determined by the Administrator, that are commonly associated with the routine operations of credit unions.

(c) A Federal credit union, group of Federal credit unions, or a group of Federal and State credit unions may submit an application to the Administrator for approval to form a credit union service corporation. The application shall include:

(1) The articles of incorporation and bylaws of the proposed credit union service corporation which explicitly state that the credit union service corporation shall:

(i) Comply with the Federal Credit Union Act and the National Credit Union Administration Rules and Regulations;

(ii) Provide services to each of its credit union stockholders and only to those stockholders on a fair and equitable basis;

(iii) Provide the following statement prior to any party lending funds to or investing funds in the corporation:

"THE DESIGNATION OF _____ AS A 'CREDIT UNION SERVICE CORPORATION', BY THE NATIONAL CREDIT UNION ADMINISTRATION DOES NOT INDICATE APPROVAL OF THE FINANCIAL CONDITION OF THE CORPORATION OR THE MERITS OF ANY LOAN TO OR INVESTMENT IN THE CORPORATION";

(iv) Be subject to examination by the Administrator or his authorized representative;

(v) Pay examination fees assessed by the Administrator;

(vi) Submit call reports upon request by the Administrator;

(2) Written acknowledgement that the officers, directors, and employees of a Federal credit union with an equity interest in a credit union service corporation have no pecuniary interest in the corporation and shall receive no salary or compensation other than reimbursement for necessary expenses incurred in operating the credit union service corporation; and

(3) Any other information requested by the Administrator.

(d) The Administrator may terminate the designation of any corporation as a credit union service corporation if it operates in an unsafe and unsound manner, violates the conditions of its approval as a credit union service corporation, or violates any provision of the Federal Credit Union Act or National Credit Union Administration Rules and Regulations.

(e) A Federal credit union may invest, in total, up to 1 per centum of its paid-in and unimpaired capital and surplus in stock of credit union service corporations. A Federal credit union may lend, in total, an additional 1 per cent of its paid-in and unimpaired capital and surplus only to credit union

service corporations in which it has invested. Such investment authority does not include authority to invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility, financial institution or any other similar organization, corporation, association, or to lend funds to these entities, except as otherwise expressly provided in the Federal Credit Union Act.

(f) The following procedures apply to applications made under the provisions of this section:

(1) Application for approval as a credit union service corporation shall be submitted to the appropriate Regional Office and shall contain the information described in paragraph (c) of this section;

(2) Applications for approval to form a credit union service corporation that will engage in any of the activities described in paragraph (b) of this section shall be acted upon by the Administration within a 45 day period, not including week-ends and holidays, that begins on the date of receipt by the Regional Office of the complete written record on the applications. In the event of the failure of the Administration to act on such an application within 45 days, the application shall be deemed to be approved. Action on any application shall be deemed to have been taken when notice, either oral or written, is received by the applicant;

(3) Applications for approval to form a credit union service corporation that will not perform any of the activities described in paragraph (b) of this section shall be acted upon in the same manner as applications described in paragraph (f)(2) of this section except, that action on these applications must be taken within 90 days of receipt of a complete record on the application; and

(4) Any additions to or modifications of the functions performed or the goods and services provided by an approved credit union service corporation must be approved prior to implementation. Applications for additions or modifications shall be acted upon in either 45 or 90 days from the receipt of all information concerning such additions or modifications as may be requested by the Administration. Additions or modifications involving engaging de novo in activities described in paragraph (b) of this section shall be acted upon within 45 days, pursuant to paragraph (f)(2) of this section. Additions or modifications involving engaging de novo in activities not described in paragraph (b) of this section shall be acted upon within 90 days, pursuant to paragraph (f)(3) of this section.

[FR Doc. 78-31135 Filed 11-2-78; 8:45 am]

[4110-07-M]

SOCIAL SECURITY ADMINISTRATION

[20 CFR Parts 404 and 416]

DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS

Substantial Gainful Activity Guidelines for 1978 and 1979

AGENCY: Social Security Administration.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations which would increase the amount people disabled by impairments other than blindness can earn and still be considered disabled for purposes of receiving social security and supplemental security income disability benefits.

Under the law, a person who is able to engage in substantial gainful activity (SGA) is not disabled. The proposed regulation would raise the amount of average earnings ordinarily considered as demonstrating ability to engage in SGA from \$240 to \$260 a month beginning for the calendar year 1978, and to \$280 a month beginning for the calendar year 1979. The amount of average earnings which is ordinarily presumed to represent work that does not demonstrate ability to engage in SGA would be raised from \$160 to \$170 a month beginning for the calendar year 1978, and to \$180 beginning for the calendar year 1979.

The proposed regulations would require revision of §§ 404.1534 and 416.934 of title 20 CFR Parts 404 and 416. The Department has classified the proposed regulations changes as policy significant.

FOR FURTHER INFORMATION CONTACT:

Mike Seledde, Social Security Administration, 406 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-2083.

Dated: September 15, 1978.

DON WORTMAN,
Acting Commissioner
of Social Security.

[FR Doc. 78-31142 Filed 11-2-78; 8:45 am]

[4710-06-M]

DEPARTMENT OF STATE

Office of the Secretary

[22 CFR Part 51]

[Docket No. SD-139]

PASSPORTS

Waiver of Personal Appearance for Certain Applicants Abroad

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This notice invites comments from the public on the Department of State's proposal to amend the regulation to extend to certain Foreign Service Posts abroad authority to accept passport applications in certain cases without requiring the personal appearance of applicants before consular officers. The proposal also includes provisions revising the requirements for passport photographs.

DATE: Comments must be received on or before December 29, 1978.

ADDRESS: Send comments to Deputy Assistant Secretary for Passport Services, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

A. R. Mackay, 202-632-6455.

SUPPLEMENTARY INFORMATION: The amendment of Section 51.21, Execution of Passport Application, is designed to enhance and increase service to the American citizen traveler abroad, by allowing the Secretary to designate certain American consular districts abroad to accept certain passport applications which have not been executed before diplomatic or consular officers. This service will be a modified extension of the service in the United States known as "Passports by Mail". However, the mail-in procedures will be used only in those areas where the mail service is considered efficient and secure. In other areas secure couriers will be used, such as missionaries, members of American business organizations, authorized family members, etc.; to transmit the passport applications and passports.

These new procedures will be implemented initially in a 1-year test period in a limited number of consular districts around the world which have indicated that its use is necessary and workable. New application forms will be used which are designed specifically for this purpose.

The amendment of section 51.25, Photographs, is designed to ease the restrictions on photographs by empha-

sizing the likeness of the photograph to the individual applicant rather than to an arbitrary period of time within which the picture must have been taken.

Accordingly, it is proposed to amend §§ 51.21 and 51.25 of Title 22, Code of Federal Regulations, to read as set forth below.

1. In § 51.21, paragraphs (a), (b), and (c) are revised; a new paragraph (d) is added; and former paragraphs (d) and (e) are renumbered as (e) and (f).

§ 51.21 Execution of passport application.

(a) *First-time applicants or persons who have not been issued a passport within 8 years of the date of a new application.* A person who has never been issued a passport in his or her own name, or who has not been issued a passport in his or her own name within 8 years of the date of a new application, shall appear in person, verify the application by oath or affirmation before a person authorized by the Secretary to give oaths, and pay the established fees.

(b) *Persons authorized by the Secretary to give oaths.* The following persons are authorized by the Secretary to give oaths for passport purposes:

- (1) A passport agent;
- (2) A clerk of any Federal court;
- (3) A clerk of any State court of record or a judge or clerk of any probate court;
- (4) A postal employee designated by the postmaster at a post office which has been selected to accept passport applications;
- (5) A diplomatic or consular officer abroad; or
- (6) Any other persons specifically designated by the Secretary.

(c) *Persons in the United States who have been issued a passport within 8 years of the date of a new application.* A person in the United States who has been issued a passport in his or her own name within 8 years of the date of a new application may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two signed recent photographs and the established fee to the nearest U.S. Passport Agency or to the Passport Office in Washington, D.C., provided:

- (1) The previous passport was issued when the applicant was 18 years of age or older;
- (2) No one else is to be included in the new passport; and
- (3) The previous passport is submitted with the new application.

If the applicant is unable to meet any of the requirements of paragraph (c) he or she must follow the procedures set forth in paragraph (a) of this section.

(d) *Persons outside of the United States who have been issued a passport within 8 years of the date of the application.* In a foreign country in which a U.S. consular district has been designated by the Secretary to receive such passport applications, a person who has been issued a passport in his or her own name within 8 years of the date of the new application may obtain a new passport by filling out a specially prescribed application and sending it (by mail or another person as prescribed by the Secretary), together with his or her previous passport, two signed recent photographs and the established fee to the consular office in the consular district in which he or she is present (if that consular district is designated for this purpose by the Secretary), provided he or she meets the following requirements:

(1) The previous passport must have been issued when the applicant was 18 years of age or older;

(2) No one else is to be included in the new passport; and

(3) The previous passport must be submitted with the new application.

If the applicant is unable to meet the above requirements he or she must follow the procedures set forth in paragraph (a) of this section.

(e) *Inclusion.* * * *

(f) *Diplomatic and official passport applications.* * * *

2. In § 51.25, paragraph (a) is revised to read as follows:

§ 51.25 Photographs.

(a) *Photographs of bearer.* The applicant shall submit with his application duplicate photographs of the size specified in the application. The photographs should be sufficiently recent to be a good likeness of and satisfactorily identify the applicant. The photographs shall be signed in the same manner and form as required in the application. No joint photographs of the bearer and included person(s) will be acceptable.

(Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 166-70 comp., p. 507.)

Dated: October 30, 1978.

HUME A. HORAN,
Acting Assistant Secretary
for Consular Affairs.

[FR Doc. 78-31017 Filed 11-2-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Federal Insurance Administration

(24 CFR Part 1917)

[Docket No. FI-4403]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for
the Town of Brookfield, Fairfield County,
Conn., Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38421 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION
CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following location:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
East Brook	100 ft upstream from private drive (460 ft upstream from U.S. 208).	288

Should be corrected to read:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
East Brook	100 ft upstream from private drive (460 ft upstream from U.S. 202).	288

(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 the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30968 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4405]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for
the Town of Newtown, Fairfield County,
Conn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38424 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following location:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Brook	150 ft. upstream of Mile Hill Rd.	366

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep Brook	125 ft upstream of Mile Hill Rd.	366

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30967 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4740]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Coachella, Riverside County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Coachella, Riverside County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 1515 Sixth Street, Coachella, Calif. Send comments to: Mr. Ben McMakin, City Manager, City of Coachella, City Hall, 1515 Sixth Street, Coachella, Calif. 92236.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Coachella, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Depth in feet, above ground
Whitewater River.	West of Grapefruit Blvd. between Avenue 49 and Avenue 50.	2
	Intersection of Cates Lane and Avenue 50.	2
	Intersection of West Dike Rd. and Avenue 52.	2
	Intersection of Tyler St. and Avenue 53.	2
	Intersection of West Dike Road and Avenue 54.	2

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30970 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4741]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Indio, Riverside County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Indio, Riverside County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the

second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Indio, Calif. Send comments to: Mr. William Phillip Hawes, City Manager, City of Indio, P.O. Drawer 1788, Indio, Calif. 92201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Indio, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding along All American Canal.	Between 45th Ave. and 46th Ave. and west of Madison St.	29
Source of flooding	Location	Depth in feet above ground
East of Oasis St* ...	Intersection of Oasis St. and 46th Ave.	1
	Intersection of Calhoun St. and 47th Ave.	2

Source of flooding	Location	Depth in feet above ground
	Intersection of Cabazon Rd. and Dillon Rd.	2
West of Oasis St. and east of All American Canal*	Intersection of Hjorth St. and Highway 111.	1
	Intersection of 4th St. and Stables Rd.	1
East of Whitewater River and west of All American Canal*	Adjacent to Whitewater River between 45th and 46th Ave.	3

*Shallow flooding.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30971 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4742]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of La Habra, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of La Habra, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, La Habra, Calif. Send comments to: Mr. Lee Risner, City Manager, City of La Habra, Civic Center, P.O. Box 337, La Habra, Calif. 90631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of La Habra, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coyote Creek Channel.	Imperial Highway and Beach Blvd.—40 ft.*	211
	Idaho St.—50 ft.*	231
	Lambert Rd.	238
	La Habra Blvd.—20 ft.*	377
	Hodson Ave.—20 ft.*	385
La Mirada Creek...	Walling Ave.—20 ft.*	400
	Intersection of Oakland Dr. and Dextford Dr.**	1
	Between Rigby St.	1
	Intersection of Whittier Blvd and Chantry Dr.	1

*Upstream from Centerline.

**Shallow flooding.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.
[FR Doc. 78-30972 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4743]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Laguna Beach, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Laguna Beach, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 505 Forest Avenue, Laguna Beach, Calif. Send comments to: Mr. Fred Solomon, city manager, city of Laguna Beach, City Hall, 505 Forest Avenue, Laguna Beach, Calif. 92651.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Laguna Beach, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Laguna Canyon	Forest St.—50 ft.*	33
	Loma Terrace—20 ft.*	37
	Laguna Canyon Rd.—30 ft.*	52
	Woodland Dr.—50 ft.*	70
	Milligan Dr.—50 ft.*	75
	Canyon Acres Dr.—30 ft.*	78
	El Toro Rd.—30 ft.*	234
	Laguna Frontage Rd.—50 ft.*	238
Bluebird Canyon	Glenneyre St.—20 ft.*	56
	Catalina St.—40 ft.*	59
	Carmelita St.—30 ft.*	66
	Santa Cruz St.—40 ft.**	80
	Santa Cruz St.—40 ft.*	108
	Bluebird Canyon St.—30 ft.*	122

Source of flooding	Location	Depth in feet above ground
Laguna Canyon	Area along Laguna Canyon Rd. approximately 4,300 ft. upstream of the intersection of Laguna Canyon Rd. and El Toro Rd.	2

*Upstream from centerline.

**Downstream from centerline.

(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, 43 FR 7719.)

Issued October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30973 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4744]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the town of Los Altos Hills, Santa Clara County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Los Altos Hills, Santa Clara County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at town hall, 26379 Fremont Road, Los Altos Hills, Calif. Send comments to: Mr. Robert Crowe, Town Administrator, Town of Los Altos Hills, Town Hall, 26379 Fremont Road, Los Altos Hills, Calif. 94022.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Los Altos Hills, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Adobe Creek	Edith Rd	174
	Burke Rd	192
	O'keefe Lane	264
	Poothill College Rd	307
	El Monte Ave	328
	Rhus Ridge Dr	379
	Francemont Dr	421
Barron Creek	Fremont Rd.	145
	(downstream crossing).	
	Ortega Dr	172
	Fremont Rd (upstream crossing).	205
	La Paloma Rd	220
	Todd Lane—20 ft upstream from centerline.	245
Purissima Creek	Purissima Rd	252
	(downstream crossing).	
	Viscaina Rd	303
	Purissima Rd (upstream crossing).	332
Matadero Creek	Old Page Mill Rd	193
	Interstate 280	212
	Page Mill Rd	244
	Moon Lane	270
	Lupine Rd—20 ft upstream from centerline.	286
Arastradero Creek	Page Mill Rd	254
Hale Creek	Magdalena Ave	221
	Dawnridge Dr	270
Concepcion Drainage	Fremont Rd	207
	Alto Verde Lane	225
	Roble Veneno Lane	247

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30974 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4745]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Rancho Mirage, Riverside County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rancho Mirage, Riverside County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 69-825 Highway 111, Rancho Mirage, Calif. Send comments to: Mr. Richard Smith, City Manager, City of Rancho Mirage, 69-825 Highway 111, Rancho Mirage, Calif. 92270.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Rancho Mirage, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Depth in feet, above ground
East Rancho Mirage Storm Channel.	Intersection of Gardess Rd. and Magnesia Falls Dr.	1
	Intersection of San Geronio Rd. and Magnesia Falls Dr.	1
Magnesia Spring Channel.	Intersection of Indian Trail Rd. and Halgar Rd.	2
	Intersection of Mirage Rd. and Sahara Rd.	1
	Intersection of Indian Trail Rd. and San Geronio Rd.	1
	Intersection of Dunes View Rd. and Estrellita Dr.	2
	Intersection of San Jacinto Dr. and Indian Trail Rd.	1

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30975 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4746]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Santa Ana, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Santa Ana, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the na-

tional flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 20 Civic Center Plaza, 8th Floor, Santa Ana, Calif. Send comments to: Mr. Keith Gow, Acting City Manager, City of Santa Ana, City Hall, 20 Civic Center Plaza, 8th Floor, Santa Ana, Calif. 92701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Santa Ana, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Santiago Creek.....	Confluence with Santa Ana River.	108
	Bristol St.....	119

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Flower St.—50 ft. upstream from centerline	133
	Santa Ana Freeway	142
	Main St.	147
	Santiago Ave.	157
	Atchison, Topeka & Santa Fe RR.	163
	Corporate limits	616

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30976 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4747]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tustin, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Tustin, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 300 Centennial Way, Tustin, Calif. Send comments to: Mr. Dan Blankenship, City Administrator, City of Tustin, City Hall, 300 Centennial Way, Tustin, Calif. 92680.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Tustin, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Santa Ana-Santa Fe Channel.	Atchison, Topeka & Santa Fe Ry. (downstream crossing)—75 ft*.	58
	Atchison, Topeka & Santa Fe Ry. (upstream crossing)—10 ft*.	66
El Modena-Irvine Channel.	Intersection of El Modena-Irvine Channel and Santa Ana Freeway—200 ft north.	81
	Atchison, Topeka & Santa Fe Ry.—20 ft*.	99

*Upstream of centerline.

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30977 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4748]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lake Station, Lake County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lake Station, Lake County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Lake Station City Hall, 3625 Central Avenue, Lake Station, Ind. Send comments to: Hon. Carl Jacobs, Mayor of Lake Station, 3625 Central Avenue, Lake Station, Ind. 46405.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lake Station, Lake County, Ind., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep River	Upstream corporate limits.	603
	State Route 51 (approximately 5,800 ft downstream of corporate limits).	602
	State Route 51 (approximately 12,800 ft downstream of corporate limits).	601
	26th Ave	600
	Grand Blvd	599
	ConRail	598
	Liverpool Rd	598
Burns Ditch	Interstate 80-94	597
	Clay St	596
	State Route 51	596
	Toll road exit 4	596
	Indiana toll road	596

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30978 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4749]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Mooresville, Morgan County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the town of Mooresville, Morgan County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, South Indiana Street, Mooresville, Ind. Send comments to: The Honorable Roland Summerlot, Town Board President, Town of Mooresville, Town Hall, South Indiana Street, Mooresville, Ind. 46158.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Mooresville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek ..	Approximately 100 ft upstream of ConRail bridge.	667
	Just upstream of 1300 North Rd.	672
	Approximately 0.5 mi upstream of 1300 North Rd.	674
East Fork White Lick Creek.	Just upstream of State Route 67.	665
	Just upstream of Bridge Rd.	670
	Just upstream of ConRail bridge.	676
	Approximately 0.4 mi upstream of ConRail bridge.	677

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30979 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4750]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Humboldt, Humboldt County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Humboldt, Humboldt County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Humboldt, Iowa. Send comments to: The Honorable LeRoy Jorgensen,

Mayor, City of Humboldt, 29 South 5th Street, Humboldt, Iowa 50548.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Humboldt, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Des Moines River.	Southern corporate limits.	1,062
	3,900 ft downstream from Lewis St.	1,066
	Upstream side of Lewis St.	1,071
	Upstream side of Sumner Ave.	1,073
	500 ft upstream of U.S. Highway 169.	1,076
	Upstream side of dam 2,250 ft above U.S. Highway 169.	1,082
	Western corporate limits.	1,083
Tributary A.....	At confluence with West Des Moines River.	1,064
	Downstream side of 5th St.	1,066
	Upstream side of 5th St.	1,068
	Downstream side of 3d Ave. South.	1,070

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30980 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4751]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Avon, Norfolk County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Avon, Norfolk County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Buckley Center, Avon, Mass. Send comments to: Mr. William E. Enright, Chairman, Board of Selectmen, Town of Avon, Town Hall, Buckley Center, Avon, Mass. 02322.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Avon, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973

(Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Brook.....	Brockton Reservoir at Gravel path—50 ft *.	209
	Pond St.—50 ft *	210
	State Highway 24 exit ramp—50 ft *.	210
	Harrison Blvd.—ft *	211
	State Highway 24 entrance ramp—50 ft *.	212
	State Highway 24—50 ft *.	213
	Old Railroad grade—50 ft *.	226
Tributary A to Beaver Brook.	Strafello Dr.—100 ft ** ..	213
	Strafello Dr.—200	219
	Ledin Ave.—50 ft *	221
	Old Railroad grade—50 ft *.	227
Trout Brook.....	Connelly Rd.—200 ft *	116
	Ladge Dr.—100 ft **	123

*Upstream from centerline.

**Downstream from centerline.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30981 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4752]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Foxborough, Norfolk County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Foxborough, Norfolk County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 40 South Street, Foxborough, Mass. Send comments to: Mr. Peter Stanton, Chairman, Board of Selectmen, Town of Foxborough, Town Hall, 40 South Street, Foxborough, Mass. 02035.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Foxborough, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding.	Location	Elevation in feet, national geodetic vertical datum
Canoe River	East St.—50 ft*	171
	East St.—25 ft*	175
	Willow St.—50 ft**	201
Robinson Brook	Commercial St (downstream crossing)—25 ft**	186
	Interstate 95—100 ft**	211
	Walnut St.—25 ft**	225
	Central St.—200 ft*	243
	Central St.—at centerline	250
Rumford River	Belcher Rd.—at centerline	174
	Private Rd. (at downstream end of glue factory pond)—100 ft*	174
	Private road (at downstream end of glue factory pond)—at centerline	182
	Cocasset St.—75 ft*	196

*Downstream of centerline.

**Upstream of centerline.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

(FR Doc. 78-30982 Filed 11-2-78; 8:45 am)

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4753]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of South Hadley, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

the town of South Hadley, Hampshire County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at town clerk's office, Town Hall, 116 Main Street, South Hadley, Mass. Send comments to: Mr. Joseph W. Long, Chairman, Board of Selectmen, town of South Hadley, Town Hall, 116 Main Street, South Hadley, Mass. 01075.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of South Hadley, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	State Highway 116 bridge	74
	Holyoke Dam—160 ft*	78
	Holyoke Dam—80 ft**	112
	Confluence with Bachelor Brook—160 ft**	122
Bachelor Brook	State Highway 47 bridge	122
	Woodbridge Road Bridge—at centerline	125
	State Highway 116 bridge—70 ft*	176
	State Highway 116 bridge—160**	181
Stony Brook	Morgan Street Bridge—at centerline	162
	Lower pond dam and pedestrian bridge—40 ft**	177
	Stone archbridge	186
	Wood bridge—40 ft**	202
	Morgan St. culvert—at centerline	213
Buttery Brook	State Highway 116	74
	Gaylord St	74

* Downstream of centerline.

** Upstream of centerline.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30983 Filed 11-2-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4754]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Whately, Franklin County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Whately, Franklin County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Whately, Mass. Send comments to: Mr. Byron Canney, Chairman, Board of Selectmen, town of Whately, Town Hall, Whately, Mass. 01093.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Whately, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Downstream corporate limits	129
	Confluence with Sugarloaf Brook	132
Sugarloaf Brook	Driveway box culvert (approximately 0.61 mi upstream from mouth)—50 ft*	135
	River Road Bridge (most downstream crossing)—50 ft*	140
	River Road Bridge (most upstream crossing)—25 ft*	147

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream corporate limits	158
Mill River	Claveric Road Bridge—75 ft*	166
	Christian Lane Bridge—at centerline	173
	North St.—downstream face	185
Great Swamp Brook	U.S. Highway 5-40 ft**	171
	U.S. Highway 5-50 ft**	174
Bloody Brook	Driveway culvert (approximately 0.09 mi upstream from mouth)—at centerline	185
West Brook	Downstream corporate limits	178
	West Brook Road Bridge—at centerline	313

* Upstream from centerline.

** Downstream from centerline.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30984 Filed 11-2-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4755]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Sunflower County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Sunflower County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the pro-

posed base (100-year) flood elevations are available for review at the Sunflower County Courthouse, Indianola, Miss. 38751. Send comments to: Mr. James W. Corder, President, Sunflower County Board of Supervisors, or Mr. Jack Harper, Chancery Clerk, Sunflower County Courthouse, Indianola, Miss. 38751.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Sunflower County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Powell Bayou.....	Upstream corporate limits of Drew.	134
Tributary Z.....	At the confluence with Powell Bayou.	134
Sunflower Diversion Channel.	Just upstream of highway 49W.	121
Tributary Y.....	Approximately 100 ft upstream of County Rd.	119
Tributary X.....	Approximately 100 ft downstream of highway 3 bridge.	115
Moorhead Bayou..	At U.S. 82 bridge.....	115

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30985 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4756]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Brooklawn, Camden County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Brooklawn, Camden County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Borough Hall, 213 Pennsylvania Avenue, Brooklawn, N.J. Send comments to: Hon. Edward H. Murphy, Mayor, Borough of Brooklawn, Borough Hall, 213 Pennsylvania Avenue, Brooklawn, N.J. 08030.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Brooklawn, N.J., in accordance with section 110 of

the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Timber Creek..	New Broadway*	10
Little Timber Creek..	South Broadway*	10
	U.S. Highway 130 (Crescent Blvd.)*.	10

*At centerline

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30986 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4757]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Newark, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Newark, Essex County, N.J. These base (100-year) flood elevations

are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city hall, 920 Broad Street, Newark, N.J. Send comments to: Hon. Kenneth Gibson, Mayor, City of Newark, City Hall, 920 Broad Street, Newark, N.J. 07102.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Newark, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newark Bay	Intersection of Terminal St. and Tyler St.	10
	Intersection of Marsh St. and Import St.	10
	Intersection of Marlin St. and Transit St.	10
Passaic River	Intersection of Albert Ave. and Catherine St.	10
	Bridge Street-at centerline.	10
Second River.....	McCarter Hwy.—100 ft*	12
	Washington Ave.—20 ft*	24
	Summer Ave.—50 ft*	34
	Union St.—25 ft*	42
	ConRail (upstream crossing)—10 ft*	67

*Upstream from centerline.

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30987 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI- 4758]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Stafford, Ocean County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Stafford, Ocean County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 775 East Bay Avenue, Manahawkin, N.J. Send comments to: Hon.

Charles E. Knight, Mayor, township of Stafford, 775 East Bay Avenue, Manahawkin, N.J.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Stafford, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Manahawkin Bay..	At intersection of Mill Creek Rd and Benjamin Blvd.	8
	At intersection of Morton Dr. and Charles Blvd.	8
	At crossing of Beach Ave. over Cider Mill Creek.	8

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30988 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4759]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for
the Town of Grand Island, Erie County, N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or
comments are solicited on the pro-
posed base (100-year) flood elevations
listed below for selected locations in
the town of Grand Island, Erie
County, N.Y. These base (100-year)
flood elevations are the basis for the
flood plain management measures
that the community is required to
either adopt or show evidence of being
already in effect in order to qualify or
remain qualified for participation in
the national flood insurance program
(NFIP).

DATE: The period for comment will
be ninety (90) days following the
second publication of this proposed
rule in a newspaper of local circulation
in the above-named community.

ADDRESS: Maps and other informa-
tion showing the detailed outlines of
the flood-prone areas and the pro-
posed base (100-year) flood elevations
are available for review at the Grand
Island Town Hall, 2255 Baseline Road,
Grand Island, N.Y. Send comments to:
Mr. Robert P. Griffin, Town Manager
of Grand Island, Grand Island Town
Hall, Grand Island, N.Y. 14072.

FOR FURTHER INFORMATION
CONTACT:

Mr. Richard Krimm, Assistant Ad-
ministrator, Office of Flood Insur-
ance, Room 5270, 451 Seventh Street
SW., Washington, D.C. 20410, 202-
755-5581 or toll-free line 800-424-
8872.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator
gives notice of the proposed determi-
nations of base (100-year) flood eleva-
tions for the town of Grand Island,
Erie County, N.Y. in accordance with
section 110 of the Flood Disaster Pro-
tection Act of 1973 (Pub. L. 93-234), 87
Stat. 980, which added section 1363 to
the National Flood Insurance Act of
1968 (Title XIII of the Housing and
Urban Development Act of 1968 (Pub.
L. 90-448)), 42 U.S.C. 4001-4128, and
24 CFR 1917.4(a).

These elevations, together with the
flood plain management measures re-
quired by § 1910.3 of the program re-
gulations, are the minimum that are re-
quired. They should not be construed
to mean the community must change
any existing ordinances that are more
stringent in their flood plain manage-
ment requirements. The community
may at any time enact stricter require-
ments on its own, or pursuant to poli-
cies established by other Federal,
State, or regional entities. These pro-
posed elevations will also be used to
calculate the appropriate flood insur-
ance premium rates for new buildings
and their contents and for the second
layer of insurance on existing build-
ings and their contents.

The proposed base (100-year) flood
elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Niagara River Tonawanda Channel.	Confluence of Gun Creek.	570
	Confluence of Spicer Creek.	571
Woods Creek.....	Interstate 190.....	571
	At boundary of Buckhorn Island State Park.	568
Woods Creek Tributary No. 1.	Baseline Rd. upstream ...	568
	Confluence of Woods Creek Tributary No. 2.	570
Woods Creek Tributary No. 3.	Confluence of Woods Creek Tributary No. 3.	572
	Stony Point Rd. upstream.	576
Woods Creek Tributary No. 1.	Ranson Rd. upstream.....	577
	Confluence with Woods Creek.	568
Woods Creek Tributary No. 3.	At limit of detailed study (6,500 ft upstream of confluence).	574
	Confluence of Woods Creek.	572
Gun Creek.....	Stony Point Rd. upstream.	572
	Confluence with Niagara River— Tonawanda Channel.	570
Spicer Creek	Ranson Rd. upstream.....	574
	Confluence with Niagara River— Tonawanda Channel.	571
Tributary No. 1	Whitehaven Rd. upstream.	576
	Harvey Rd. upstream.....	581
Tributary No. 1	Confluence with Niagara River— Tonawanda Channel.	574
	East River Rd. upstream	574
	Upstream limit of detailed study (2,000 ft upstream of East River Rd.).	578

(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 dele-
gation of authority to Federal Insurance
Administrator, 43 FR 7719.)

Issued October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30988 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4760]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for
the Village of Waterford, Saratoga County,
N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or
comments are solicited on the pro-
posed base (100-year) flood elevations
listed below for selected locations in
the village of Waterford, Saratoga
County, N.Y. These base (100-year)
flood elevations are the basis for the
flood plain management measures
that the community is required to
either adopt or show evidence of being
already in effect in order to qualify or
remain qualified for participation in
the national flood insurance program
(NFIP).

DATE: The period for comment will
be ninety (90) days following the
second publication of this proposed
rule in a newspaper of local circulation
in the above-named community.

ADDRESS: Maps and other informa-
tion showing the detailed outlines of
the flood-prone areas and the pro-
posed base (100-year) flood elevations
are available for review at Village Hall,
65 Broad Street, Waterford, N.Y. Send
comments to: Hon. Anthony Catallo,
Mayor, village of Waterford, Village
Hall, 65 Broad Street, Waterford, N.Y.
12188.

FOR FURTHER INFORMATION
CONTACT:

Mr. Richard Krimm, Assistant Ad-
ministrator, Office of Flood Insur-
ance, Room 5270, 451 Seventh Street
SW., Washington, D.C. 20410, 202-
755-5581 or toll-free line 800-424-
8872.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator
gives notice of the proposed determi-
nations of base (100-year) flood eleva-
tions for the village of Waterford,
N.Y., in accordance with section 110 of
the Flood Disaster Protection Act of
1973 (Pub. L. 93-234), 87 Stat. 980,
which added section 1363 to the Na-
tional Flood Insurance Act of 1968
(Title XIII of the Housing and Urban
Development Act of 1968 (Pub. L. 90-
448)), 42 U.S.C. 4001-4128, and 24 CFR
1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River.....	U.S. Highway 4—20 ft* ...	34
	Delaware & Hudson RR.*	34

* Upstream from centerline.

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30990 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4761]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bottineau, Bottineau County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Bottineau, Bottineau County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in

the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 115 West Sixth, Bottineau, N. Dak. Send comments to: Hon. Richard Sandness, mayor, city of Bottineau, City Hall, 115 West Sixth, Bottineau, N. Dak. 58318.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Bottineau, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oak Creek.....	Downstream	1,588
	extraterritorial limits.	
	13th St.*.....	1,610
	10th St.*.....	1,620
	5th St.*.....	1,634

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Lake Rd.-80 ft.**.....	1,653
	Upstream	1,676
	extraterritorial limits.	

* At centerline.

** Upstream from centerline.

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30991 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4762]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Willow City, Bottineau County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Willow City, Bottineau County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Willow City, N. Dak. Send comments to: Hon. Art Schoenborn, Mayor, City of Willow City, P.O. Box 224, Willow City, N. Dak., 58384.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Willow City, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willow Creek	Downstream extraterritorial limits.	1,464
	State highway 60-at centerline.	1,465
	Upstream extraterritorial limits.	1,467

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30993 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4763]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of North Olmsted, Cuyahoga County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of North Olmsted, Cuyahoga County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Engineer's Office, City Hall, North Olmsted, Ohio. Send comments to: Hon. R. W. Swietyniowski, Mayor, City of North Olmsted, 5206 Dover Center Road, North Olmsted, Ohio 44070.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of North Olmsted, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roots Ditch	100 ft downstream of Canterbury Rd.	757
	Downstream of Canterbury Rd.	758
	Upstream of Canterbury Rd.	761
	290 ft upstream of Canterbury Rd.	762
	310 ft upstream of Canterbury Rd.	763
	500 ft upstream of Canterbury Rd.	763
	560 ft upstream of Canterbury Rd.	764
	Just downstream of golf course bridge 800 ft upstream from Canterbury Rd.	765
	Just upstream of golf course bridge 800 ft upstream from Canterbury Rd.	766
	At 1st private bridge	768
	40 ft downstream of Revere Rd.	770
	At Burns Rd. culvert	771
	Downstream side of Decker Rd. culvert.	772
	Upstream side of Decker Rd. culvert.	774
	Outlet of culvert about 300 ft downstream of McKenzie Rd.	774
	Upstream side of McKenzie Rd.	777
	About 850 ft upstream of Stearns Rd.	778
Rocky River	Downstream of Lewis Rd.	669
	70 ft upstream of Lewis Rd.	671
	1,360 ft upstream of Lewis Rd.	672
	Upstream corporate limit.	673

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30994 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4764]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Clearfield, Clearfield County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Clearfield, Clearfield County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 221 East Market Street, Clearfield, Pa. Send comments to: Mr. William E. Coxy, President of the Borough Council of Clearfield, 1010 Turnpike Avenue, Clearfield Pa. 16308

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Clearfield, Clearfield County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Corporate limits (west) ..	1,106
	Timber Dam (downstream).	1,102
	Corporate limits (east)...	1,097

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30995 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4765]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Millersburg, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Millersburg, Dauphin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Manager's Office, Municipal Building, Millersburg, Pa. Send comments to: Mr. Raymond Baer, President of the Council of Millersburg, 739 Church Street, Millersburg, Pa. 17061

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Millersburg, Dauphin County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream corporate limits.	353
	Confluence of Shippens Run.	365
Wiconisco Creek....	Confluence with Susquehanna River.	384
	ConRail	388
	State Route 47 (Market St.).	392
Tributary No. 1, to Wiconisco Creek.	Downstream corporate limits.	405
	Downstream culvert opening 175 ft downstream of Plum St.	417

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Wiconisco Creek.	Upstream culvert opening 175 ft downstream of Plum St.	425
	State St.	432
	Union St.	448
	Downstream Center St. culvert.	448
	Upstream Center St. culvert.	456
	Manor Dr.	464
	Downstream corporate limits (Wiconisco St.).	398
	Downstream Pennsylvania Route 209.	412
	Upstream Pennsylvania Route 209.	420
	Upstream corporate limits.	424
	do.	508

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30996 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4766]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Parker, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Parker, Collin County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Of-

fices, Route 1, Box 36, Allen, Tex. 75002. Send comments to: Mayor R. T. Lantrip, Route 1, Box 36, Allen, Tex. 75002.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Parker, Collin County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maxwell Creek	Approximately 100 ft upstream of Gray Lane.	592
	Approximately 100 ft downstream of Parker Rd.	601
	Approximately 100 ft downstream of Gregory Rd.	611
	Just upstream of Eliza Lane.	625
	Approximately 200 ft downstream of Betsy Lane.	536
Cottonwood Creek	Approximately 100 ft upstream of Parker Rd.	560
	Just upstream of Dublin Rd.	545

(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, 43 FR 7719.)

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.
[FR Doc. 78-30997 Filed 11-2-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4768]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Linton, Emmons County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Linton, Emmons County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Linton, N. Dak. Send comments to: Hon. Joe Vetter, Mayor, City of Linton, P.O. Box 57, Linton, N. Dak. 58552.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Linton, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development

opment Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Creek	Gravel road—100 ft*	1,699
	County club crossing—100 ft*	1,703
	Field Rd.—50 ft*	1,707
	U.S. Highway 83—100 ft*	1,709
	Burlington Northern RR.—80 ft*	1,712
Spring Creek	Sampson Ave.—50 ft*	1,704
	Private bridge—40 ft*	1,706
	Schley Ave.—70 ft*	1,707
	Gravel road—100 ft*	1,719
	U.S. Highway 83—100 ft*	1,724
Spring Creek overflow	Burlington Northern RR.—100 ft*	1,732
	U.S. Highway 83—30 ft*	1,719
	Burlington Northern RR.—70 ft*	1,720
	East West Highway—40 ft*	1,724

*Upstream of centerline.

(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, 43 FR 7719.)

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30992 Filed 11-2-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-258-76]

REVISION OF MILEAGE TEST AND DOLLAR LIMITS FOR DEDUCTION OF MOVING EXPENSES

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the revision of the mileage test and dollar limits with respect to the deduction of moving expenses. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act. The regulations would directly affect individuals who pay or incur moving expenses.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 2, 1979. The amendments are proposed to be effective for taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-258-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Barbara Bitler Coughlin of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-6618).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 217 (b)(3) and (c)(1) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 506 (a), (b), and (d) of the Tax Reform Act of 1976 (90 Stat. 1563). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

MILEAGE TEST

The proposed regulations amend paragraphs (a)(3)(i) and (c)(2) of

§ 1.217-2 to reflect the change in the mileage test with respect to the deduction of moving expenses. Prior to December 31, 1976, otherwise qualifying moving expenses generally were allowable as a deduction only if the distance from the taxpayer's new principal place of work to the taxpayer's former residence was at least 50 miles greater than the distance from the taxpayer's former principal place of work to the taxpayer's former residence. The proposed regulations provide that, with respect to moving expenses paid or incurred in taxable years beginning after December 31, 1976, the mileage test is changed to 35 miles.

DOLLAR LIMITS

The proposed regulations also amend paragraph (b)(9) of § 1.217-2 to reflect the changes in the dollar limits with respect to the deduction of moving expenses. Prior to December 31, 1976, the amount of the deduction attributable to premove househunting costs and temporary meals and lodging expenses was limited to \$1,000. The aggregate of the amount attributable to those two items and to qualified residence sale, purchase, or lease expenses was limited to \$2,500. The proposed regulations increase these limits to \$1,500 and \$3,000, respectively, with respect to commencements of work in taxable years beginning after December 31, 1976.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is John M. Coulter, Jr., of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

The approach chosen in the proposed amendments does not appear burdensome; it imposes no new reporting burdens or recordkeeping requirements. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received

from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.217 [Deleted]

PARAGRAPH 1. Section 1.217 and the historical note are deleted.

§ 1.217-2 [Amended]

PAR. 2. Section 1.217-2 is amended as follows:

1. Paragraph (a)(3)(i) is amended by inserting the phrase "that in 1977" in the 11th sentence between the words "assume" and "A is" and by deleting the term "50 miles" in the 11th sentence and inserting in its place the term "35 miles".

2. Paragraph (b)(9) is amended as follows:

a. The first sentence of (ii) is amended by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

b. The third sentence of (ii) is amended by deleting the term "1971" both places it occurs and inserting in its place the term "1977", by deleting the term "1972" both places it occurs and inserting in its place the term "1978", and by deleting the term "\$500" and inserting in its place the term "\$1,000".

c. The second sentence of (iii) is amended by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

d. The first sentence of (v) is amended by deleting the term "\$2,500" and inserting in its place the phrase "\$3,000 (\$2,500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the term "\$1,000" and inserting in its place the phrase "\$1,500 (\$1,000 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

e. The second sentence of (v) is amended by deleting the term "\$1,250" and inserting in its place the phrase "\$1,500 (\$1,250 in the case of a commencement of work in a taxable

year beginning before January 1, 1977)", and by deleting the term "\$500" and inserting in its place the phrase "\$750 (\$500 in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

f. The third sentence of (v) is amended by deleting the phrase "\$2,500 and \$1,000 limitation" and inserting in its place the phrase "\$3,000 and \$1,500 limitation (\$2,500 and \$1,000, respectively, in the case of a commencement of work in a taxable year beginning before January 1, 1977)", and by deleting the phrase "\$1,250 and \$500 limitation" and inserting in its place the phrase "\$1,500 and \$750 limitation (\$1,250 and \$500, respectively, in the case of a commencement of work in a taxable year beginning before January 1, 1977)".

g. Example (1) of (vi) is amended by deleting the term "1971" each place it appears and inserting in its place the term "1977", by deleting the term "\$2,500" and inserting in its place the term "\$3,000", and by deleting the term "\$1,000" and inserting in its place the term "\$1,500".

h. Example (2) of (vi) is amended by deleting the term "1971" and inserting in its place the term "1977", by deleting the term "\$1,250" both places it appears and inserting in its place the term "\$1,500", and by deleting the term "\$500" both places it appears and inserting in its place the term "\$750".

i. Example (3) of (vi) is amended by deleting the term "1971" both places it appears and inserting in its place the term "1977", by deleting the term "\$5,000" and inserting in its place the term "\$6,000", by deleting the term "\$2,000" and inserting in its place the term "\$3,000", by deleting the term "\$2,500" both places it appears and inserting in its place the term "\$3,000", and by deleting the term "\$1,000" both places it appears and inserting in its place the term "\$1,500".

3. Paragraph (c)(2) is amended by deleting the term "50 miles" both places it appears and inserting in its place the phrase "35 miles (50 miles in the case of expenses paid or incurred in taxable years beginning before January 1, 1977)".

WILLIAM E. WILLIAMS,
Acting Commissioner
of Internal Revenue.

[FR Doc. 78-31070 Filed 11-2-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[41 CFR Parts 101-26 and 101-38]

U.S. GOVERNMENT NATIONAL CREDIT CARD

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations covering the preparation and control of Standard Form 149, U.S. Government National Credit Card, to provide tighter management controls over the issuance, accountability, and disposition of the credit card.

DATE: Comments are due on or before January 15, 1979.

ADDRESS: Written comments should be sent to: General Services Administration (FAF), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

SUPPLEMENTARY INFORMATION: Under the provisions of GSA's implementation of Executive Order 12044, Improving Governmental Regulations, each GSA Commissioner is required to insure that each regulation relating to his or her area of responsibility is reviewed at least once every 5 years. The criteria for review are set forth in that implementation, which was published in the FEDERAL REGISTER on May 25, 1978 (43 FR 22612).

A further provision of the implementation of the Executive order is a list of regulations required to be considered for the first review. The regulations concerning the preparation and control of Standard Form 149, U.S. Government National Credit Card, are included in this list.

It is proposed to amend Subchapters E and G as follows:

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

1. Section 101-26.406-1 is amended to read as follows:

101-26.406-1 General.

(a) Standard Form 149, U.S. Government National Credit Card (illustrated at § 101-26.4901-149), is authorized for use by Federal agencies to obtain authorized services and delivery of items at service stations dispensing items provided by the contractors listed in the Defense Fuel Supply Center publication "Your Guide to Service Stations for Gasoline, Oil and Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC: P, Cameron Station, Alexandria, Va. 22314.

(b) Standard Form 149 is the only Government-wide credit card approved for use by Federal agencies for the procurement of gasoline and services at service stations dispensing items provided by the contractors listed in the Defense Fuel Supply Center publication referenced in subpar. (a) of this section. However, agencies that operate motor vehicles for purposes in which identification as Government vehicles would interfere with the performance of the functions for which the vehicles were acquired and are used (see § 101-38.602) need not use Standard Form 149 for those specific vehicles.

2. Section 101-26.406-5 is revised to read as follows:

§ 101-26.406-5 Methods of obtaining Standard Form 149, U.S. Government National Credit Card.

(a) All agency purchase orders for embossed Standard Forms 149 shall be addressed to the appropriate contractor but shall be forwarded through the General Services Administration (FZM), Washington, D.C. 20406, for verification of the billing code and address. GSA (FZM) will forward the purchase orders to the contractor for embossing of the Standard Form 149.

(b) The embossing contractor will bill the ordering agencies directly.

(c) The type font used when embossing Standard Form 149 shall conform with the requirements of the Federal Supply Schedule contract.

(d) Each agency shall furnish the billing code, billing address, and, if appropriate, the vehicle tag or registration number for each Standard Form 149 requisitioned. This information shall accompany the purchase order and shall be limited to five lines with a maximum of 22 characters (including spaces) per line. Each agency shall furnish an expiration date (month and year, not to exceed 2 years) for the credit card and, if appropriate, the agency series mark.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Subpart 101-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

Sections 101-38.1200 through 101-38.1203 are revised to read as follows:

§ 101-38.1200 General.

(a) Standard Form 149, U.S. Government National Credit Card, is authorized for use by Federal agencies to obtain services and delivery of supplies at service stations dispensing supplies provided by contractors listed in the Defense Fuel Supply Center publication "Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC:P, Cameron Station, Alexandria, Va. 22314.

(b) Procedures for obtaining Standard Form 149, U.S. Government National Credit Card, are in § 101-26.406-5.

§ 101-38.1201 Billing code.

The billing code is a 10-digit number and is the first embossed line on the Standard Form 149.

(a) The first nine digits shall be assigned by the agency in accordance with the following instructions:

(1) The first three digits of the billing code shall always be 000 for all Federal agencies other than the General Services Administration, Department of Agriculture, and the Department of Defense. The Department of Defense shall use 002, and the Department of Agriculture shall use 003 as will the General Services Administration.

(2) The fourth digit may be used by the agency to designate the vehicle class or for other purposes to meet the agency's requirements. If not used for any designation, the fourth digit will be zero.

(3) The fifth and sixth digits shall be the agency code unless otherwise authorized by GSA. Agency codes are shown in the Department of the Treasury booklet "Federal Account Symbols and Titles."

(4) The seventh, eighth, and ninth digits indicate the agency billing address code number, unless otherwise authorized by GSA. Each agency shall assign its own billing address code numbers when the seventh, eighth, and ninth digits are used for that purpose.

(b) The tenth digit is the validation number for use in automatic billing operations of the contractors. This

number is not assigned by the agency but will be determined by the embossing contractor listed in Federal Supply Schedule FSC 75 Part VII. The validation number will be computed in accordance with American National Standard X4.13-1971.

§ 101-38.1201-1 Billing address.

The billing address is the name of the agency and the address to which contractors should send statements covering the purchase of supplies and services by the user of the Standard Form 149, U.S. Government National Credit Card. The billing address shall be limited to three lines and shall be shown on the second, third, and fourth embossed lines.

§ 101-38.1202 Administrative control of credit cards.

(a) It is essential that Federal agencies ensure that supplies and services procured with Standard Form 149, U.S. Government National Credit Card, are for the official use of the agency involved, and that administrative control is maintained to prevent unauthorized use of credit cards. Administrative control shall include (1) and (2), below, as a minimum:

(1) A two-digit number will be embossed on the first embossed line (billing code) of the credit card in the 16th and 17th positions. This number will be the expiration year of the credit card.

(2) A replacement series mark will be embossed on the extreme right side of the fifth embossed line, to indicate the number of times a credit card has been replaced as a result of being reported lost or stolen (e.g., R-1). All requests for replacement of lost or stolen Standard Forms 149 shall be sent to the General Services Administration (FZM), Washington, DC 20406.

(3) The license tag number or registration number of a vehicle may be embossed on the fifth line of the credit card, in which case the card is to be used to procure supplies and services for that vehicle only. If no number is shown, the credit card may be used to obtain supplies and services for any properly identified U.S. Government vehicle, boat, small aircraft, nonvehicular equipment, or motor vehicle that is leased or rented for 60 continuous days or more and is officially identified in accordance with FPMR 101-38.305.

(b) Agencies shall establish procedures to provide for the:

(1) Prompt notification to the General Services Administration (FZM), Washington, D.C. 20406, of lost or stolen credit cards;

(2) Issuance of a request for replacement in the event a credit card is lost, stolen, or damaged;

(3) Return to General Services Administration (FZM) by return receipt requested, certified, or registered mail of damaged credit cards that have been replaced and of lost or stolen credit cards recovered after being reported or replaced; and

(4) Destruction of credit cards bearing an expiration date that has passed or bearing an invalid license tag number; e.g., when the tag has expired or is destroyed.

§ 101-38.1202-1 Expiration date.

(a) When the billing code and billing address are embossed, an expiration date (month and year), not to exceed 2 years, will also be embossed on the extreme right side of the fourth line of the credit card.

(b) The 16th and 17th positions on the first embossed line will be used to indicate the year of expiration.

§ 101-38.1203 Centralized administrative control of credit cards.

(a) GSA will provide centralized management and control of the Standard Form 149, U.S. Government National Credit Card program. Inquiries concerning the policy and administration of this program shall be directed to GSA.

(b) Agencies shall forward proposed assignment of billing codes and billing addresses conforming to the requirements of this Subpart 101-38.12 to the General Services Administration (FZM), Washington, D.C. 20406, for approval. Changes in billing codes and addresses shall also be furnished to GSA for approval so that there will be proper control of billing procedures. Information concerning billing codes, billing addresses, and the vehicle tag or registration number shall be limited to 5 lines with no more than 22 characters (including spaces) per line.

(c) After the determination has been made that the billing code(s) and billing address(es) submitted are correct and are not duplicates, the requests will be forwarded by GSA to the contractor for embossing.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: October 10, 1978.

ROBERT GRAHAM,
Commissioner, FSS.

[FR Doc. 78-31073 Filed 11-2-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 114]

ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to amend regulations.

SUMMARY: The Commissioner of Education proposes to amend those parts of the school construction regulations which require the U.S. Commissioner of Education to make arrangements for constructing or otherwise providing minimum school facilities for the education of children residing on Federal property. These arrangements are necessary when State law precludes the expenditure of funds for such purposes or where local educational agencies are unable to provide suitable free public education. The effect will be to permit the funding of major renovations and new construction required to make the school facilities life safe and accessible to the handicapped on eligible Federal installations where present facilities do not provide such environments. The Commissioner also proposes to define the criteria by which he can determine whether a school district is able to provide a suitable free public education for federally connected children. These regulations have been determined policy significant.

The Commissioner is proposing these amendments prior to the full recodification of Pub. L. 81-815 scheduled for spring of 1979 in order to allow for targeting of fiscal year 1979 funding.

FOR FURTHER INFORMATION CONTACT:

Dr. William W. Chase, Room 2067,
FOB-6, 400 Maryland Avenue SW.,
Washington, D.C. 20202, telephone
202-245-8412.

(Catalog of Federal Domestic Assistance No. 13.477, School Assistance in Federally Affected Areas—Construction.)

Dated: October 11, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-31140 Filed 11-2-78; 8:45 am]

[4110-02-M]

[45 CFR Part 115]

ASSISTANCE FOR MAINTENANCE AND OPER- ATION AND SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to amend regulations.

SUMMARY: The Commissioner of Education proposes to amend and add to the regulation of school assistance in federally affected areas with respect to maintenance and operation, construction, and disaster assistance. The education amendments of 1978 make the changes and additions necessary.

The proposed regulation governs these matters:

(1) The definition of an application for preliminary payment, making the present application also the final report, and eliminating the present final report;

(2) The conversion of membership to average daily attendance;

(3) The employment conditions of school personnel in cases of education arranged by the Commissioner;

(4) The nonpublic education of a handicapped child of a parent in a uniformed service;

(5) The conversion of average daily attendance to average daily membership for the purposes of construction payments;

(6) Payments in States that equalize expenditures among local educational agencies;

(7) The participation of children who live on Indian lands, and their parents, in development of educational programs, complaint procedures with respect to them, and relations with tribal councils and relations with the Bureau of Indian Affairs; and

(8) The insuring of an elective school board and empowering of a school board to oversee school expenditures with respect to education arranged by the Commissioner.

This regulation is policy significant.

FOR FURTHER INFORMATION CONTACT:

Clarke L. Herbert, U.S. Office of
Education, Room 2065, 400 Mary-
land Avenue SW., Washington, D.C.
20202, telephone 202-245-8427.

(Catalog of Federal Domestic Assistance No. 13.477, School Construction, and 13.478, Maintenance and Operation—School Assistance in Federally Affected Areas.)

Dated: September 28, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-31141 Filed 11-2-78; 8:45 am]

[4110-02-M]

[45 CFR Part 160b]

PROGRAM FOR THE GIFTED AND TALENTED

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to make technical changes in the regulations which govern the program for the gifted and talented. The purposes are to revise the present regulations to correspond with anticipated changes in the legislation; and to rewrite the existing regulations in simple English in order to give potential applicants and other interested parties, including parents of gifted and talented children, a better

understanding of the program. The Commissioner has determined that these proposed regulations are a technical amendment.

FOR FURTHER INFORMATION CONTACT:

Dorothy Sisk, Office of Gifted and Talented, Office of Education, 400 Maryland Avenue SW. (Room 3835 Donohoe), Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance No. 13.562, Program for the Gifted and Talented)

Dated: September 12, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-31138 Filed 11-2-78; 8:45 am]

[4110-02-M]

[45 CFR Part 160i]

PRESCHOOL PARTNERSHIP PROGRAM

AGENCY: Office of Education, HEW.
ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to publish a notice of proposed rulemaking for the preschool partnership program under the education amendments of 1978. The regulations affect the selection of recipients of grants to local educational agencies (LEA's) and other organizations for the establishment of combined home-school based preschool programs in cooperative pilot projects with Project Head Start. The regulations also govern the funding of other early childhood education projects for low-income families with children under 6 years of age. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. Ernest A. Crider, 400 Maryland Avenue SW., Room 2083, Washington, D.C. 20202, telephone 202-245-8118.

(Catalog of Federal Domestic Assistance Number, Preschool Partnership)

Dated: September 28, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-31139 Filed 11-2-78; 8:45 am]

[4110-02-M]

[45 CFR Parts 186, 187, 188]

INDIAN EDUCATION PROGRAM

AGENCY: Office of Education, HEW.
ACTION: Notice of Decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to develop regula-

tions for the Indian Education program to:

1. Clarify existing regulations, and
2. Meet the requirements of the proposed education amendments of 1978. Among other things, these amendments:

(a) Broaden the scope of Part A to provide assistance to meet culturally related academic needs;

(b) Authorize a grant demonstration program for local educational agencies;

(c) Grant Indian controlled schools LEA status for the purpose of receiving Part A entitlement funds;

(d) Clarify parent committee eligibility, require committee input into hiring, and the adoption of committee bylaws;

(e) Authorize a contract or grant program to evaluate, conduct research, provide technical assistance, and disseminate information; and

(f) Authorize an education service program under Part C.

The proposed regulations have been determined to be policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. John Tippeconnic, U.S. Office of Education, Room 2177, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C., 20202, phone 202-245-8020.

(CFPA No. 13.534 Indian Education 13.535 Indian Education—Special Programs and Projects 13.536 Indian Education—Adult Education 13.551 Indian Education—Non-LEA 13.569 Indian Education—Fellowships).

Dated: September 12, 1978.

ERNEST L. BAYER,
Commissioner of Education.

[FR Doc. 78-31137 Filed 11-2-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

[48 CFR Part 28]

FEDERAL ACQUISITION REGULATION PROJECT

Availability and Request for Comment on Draft Regulation

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR).¹ Additional segments will be announced for availability and comment on later dates. The regulation is

¹ Filed as part of the original document.

being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before January 3, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place NW., Room 9025, Washington, D.C. 20503. Government personnel may obtain copies from contact points established in each agency.

FOR FURTHER INFORMATION CONTACT:

William Maraist, or Strat Valakis, 202-395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear, and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following segment of the Federal Acquisition Regulation is available for public and Government agency review and comment.

PART 28—BONDS AND INSURANCE

28.3 Insurance—General Policy.

This subpart states the general policy that the Government does not insure its own property and risks and provides exceptions thereto. It contains a requirement for a notice of cancellation or change when insurance is required and a discussion of insurance against loss of or damage to Government property, and risk-pooling arrangements.

28.4 Insurance—Contract Requirements.

This subpart contains the requirements for overseas workmen's compensation and war-hazard insurance. It also contains insurance requirements under fixed-price and cost-reimbursement contracts including workmen's compensation and employer's liability, automobile, aircraft and vessel liability and insurance requirements for work on a Government installation.

Insurance clauses are provided here for review. They will be published in Part 52 of the completed FAR.

Changes contained in this proposed FAR subpart are summarized as follows:

1. The minimum liability insurance requirements have been made uniform for all agencies.

2. The following subject material has not been included in the FAR for the reasons noted:

(a) The cross-references to Government Furnished Property appearing in both DAR and FPR were deleted as unnecessary.

(b) DAR 10-404, "Aircraft—Ground and Flight Risk," was deleted. Agency needs and practices are so different that use of the DOD clause and coverage is inappropriate.

(c) DAR 10-406, "Capture and Detention," and DAR Clause 7-104.2(c), "Reimbursement for War Hazard Losses," have been deleted as being too specialized and limited in use to require FAR coverage.

3. The coverage pertaining to special casualty insurance in DAR section X, Part 6, has been recognized in the FAR, and a requirement has been made that, when used, agencies should designate a single manager or single point of contact.

4. The coverage in section X, Part 7, pertaining to Indemnification of Contractors, is based on two laws, 10 U.S.C. 2354 and 50 U.S.C. 1431-1435. DAR section X, Part 7, will not be covered in the FAR under insurance. DAR 10-701 is based on statute applicable only to military departments and should be carried in the DAR, if needed. DAR 10-702 will be relocated to FAR Part 50, "Extraordinary Contractual Actions." DAR 10-703 is based on cases with mixed justification; the citation of both authorities could be accomplished by military departments only and should be carried in the DAR, if needed.

5. The two clauses, 7-104.65 and 7-603.10 regarding work on Government installations have been combined, providing for flow-down to all subcontractors. It is logical to require insurance for any subcontractor coming on a Government installation regardless of the "tier."

Dated: October 27, 1978.

WILLIAM J. MARAIST, Jr.,
Deputy Assistant
Administrator for Regulations.

[FR Doc. 78-31122 Filed 11-2-78; 8:45 am]

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.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P&S Docket No. 5151]

C. E. MILLS AND E. E. MILLS, D.B.A. MILLS
AUCTION MARKET, OCALA, FLA.

Petition To Vacate Report and Decision

Notice is hereby given that on October 23, 1978, a petition to vacate the report and decision issued by Administrative Law Judge John C. Liebert, was certified to the Judicial Officer of the U.S. Department of Agriculture.

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

Respondent believes that the recent statutory amendment (Pub. L. 95-409), the issuance of § 203.17 of the statements of general policy (43 FR 46494), and the revocation of § 203.11 of the statements of general policy (43 FR 46955) by the Department of Agriculture support such a vacating of regulatory control over their rates and charges.

All interested persons who desire to be heard in this matter shall notify the hearing clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 20, 1978.

Done at Washington, D.C., this 31st day of October 1978.

CHAS. B. JENNINGS,
Deputy Administrator,
Packers and Stockyards, AMS.

[FR Doc. 78-31104 Filed 11-2-78; 8:45 am]

[3410-02-M]

[P&S Docket No. 5157]

ROBERTSDALE LIVESTOCK AUCTION, INC.,
ROBERTSDALE, ALA.

Petition To Vacate Order and Dismiss Proceedings

Notice is hereby given that on October 17, 1978, the respondent filed a petition requesting that the rate order issued August 30, 1978, to be effective 60 days after service, later modified to 90 days, be vacated and the proceeding dismissed.

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.).

The respondent believes that the October 2, 1978, signing of Pub. L. 95-409, which amended the Packers and Stockyards Act, 1921, as amended, to provide that a market agency subject to the act could utilize a value-based tariff, such as respondent's tariff No. 3, and the issuance of the Department's policy statement 203.17 (9 CFR 203.17) support such a vacating of regulatory control over its rates and charges.

All interested persons who desire to be heard in this matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 20, 1978.

Done at Washington, D.C., this 31st day of October 1978.

CHAS. B. JENNINGS,
Deputy Administrator,
Packers and Stockyards—AMS.

[FR Doc. 78-31103 Filed 11-2-78; 8:45 am]

[3410-01-M]

Office of the Secretary

PERFORMANCE OF FUNCTIONS OF ASSISTANT SECRETARY OF AGRICULTURE FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

AGENCY: Department of Agriculture.

ACTION: Notice.

SUMMARY: The purpose of this document is to authorize Assistant Secretary of Agriculture Dale E. Hathaway to perform all of the functions formerly performed by the Assistant Secretary of Agriculture for International Affairs and Commodity Programs. Such action will result in the effective leadership of the foreign agriculture and agricultural stabilization and conservation functions of the Department.

EFFECTIVE DATE: October 21, 1978.
FOR FURTHER INFORMATION CONTACT:

Robert L. Siegler, Office of the General Counsel, USDA, Washington, D.C., 202-447-6035.

SUPPLEMENTAL INFORMATION: Section 501(a) of the Agricultural Trade Act of 1978, Pub. L. 95-501, enacted October 21, 1978, established the position of Under Secretary of Agriculture for International Affairs and Commodity Programs. Section 503(c)

of that Act provided that the designation of "Assistant Secretary of Agriculture for International Affairs and Commodity Programs" shall not be used after the date of the enactment of the Act. In the Conference Report on the Agricultural Trade Act of 1978, H. Rept. No. 95-1755, the conferees stated "[u]ntil the appointment of and qualification of the Under Secretary, the Assistant Secretary exercising the functions and performing the duties related to foreign agriculture and agricultural stabilization and conservation may continue to exercise and perform such functions and duties." Accordingly, Assistant Secretary of Agriculture Dale E. Hathaway, is hereby authorized to perform all the duties and functions assigned to the Assistant Secretary of Agriculture for International Affairs and Commodity Programs, including those functions delegated in 7 CFR 2.21. In exercising such functions the Assistant Secretary shall use the title "Assistant Secretary of Agriculture."

The delegations of authority from the Secretary to the Assistant Secretary of Agriculture for International Affairs and Commodity Programs and redelegation from the Assistant Secretary will be revised upon the appointment of the Under Secretary of Agriculture for International Affairs and Commodity Programs. All redelegations from the assistant Secretary shall remain in full force and effect until revoked, revised, or amended.

Dated: October 30, 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc 78-31134 Filed 11-2-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

AUTHORIZATION OF FEDERAL ASSISTANCE IN THE INSTALLATION OF WORKS OF IMPROVEMENT

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1008) has been authorized for the following watersheds:

Deposit Creek, N.Y.
Wet Walnut Creek No. 1, Kans.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection

and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: October 26, 1978.

VICTOR H. BARRY, Jr.,
Deputy Administrator
for Programs.

[FR Doc. 78-31106 Filed 11-2-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Dockets 28298, et al.]

TRANS WORLD AIRLINES, INC.

Enforcement Proceeding; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter will be held on December 6 and 7, 1978, at 9:30 a.m., local time, in Room 1003, Hearing Room C, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned judge.

Dated at Washington, D.C., October 31, 1978.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 78-31195 Filed 11-2-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

HEARING

Amended Notice

Pursuant to the notice of public hearing of the U.S. Commission on Civil Rights published at page 47224 of the FEDERAL REGISTER of Friday, October 13, 1978, amendment of that notice is hereby made, stating the exact location of the hearing. The complete text of that notice, as amended, shall read as follows:

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on November 14, 1978, at the Rayburn House Office Building, Judiciary Committee Hearing Room 2226, Independence Avenue and South Capitol Street SW., Washington, D.C. An executive session, if appropriate, may be convened at any time before or during the hearing.

¹Dockets 28298, 28593, 29039, 29219, 29288, 29386, 30041, 30042, 30044, 30497, 30743, 31621, 31624, 31628, 31629, 31630, 32100, and 32569.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly

concerning the administration and enforcement of the immigration and nationality laws of the United States.

Dated at Washington, D.C., October 30, 1978.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 78-31172 Filed 11-2-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

BUSINESS DEVELOPMENT PROGRAM

Application for Assistance Under the Economic Development Administration (EDA) Special Program to Guarantee Loans to Firms in the Basic Steel Industry

Notice is hereby given that the following application for assistance under the EDA special program to guarantee loans to firms in the basic steel industry has been received by EDA.

Firm	Amount of loan	Percent guaranteed	Products
McLouth Steel Corp.	\$70,000,000	90	Hot and cold rolled carbon sheet and strip; stainless sheet and strip; and pig iron.

Dated: October 25, 1978.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc. 78-30853 Filed 11-2-78; 8:45 am]

[3510-24-M]

L. & R. SPORTSWEAR COMPANY, INC., ET AL.

Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) L. & R. Sportswear Co., Inc., 401 East 40th Street, Paterson, N.J. 07504, a producer of women's slacks, jackets, skirts, and shorts, and boys' and girls' pants (accepted October 26, 1978); (2) the L. N. Gross Co., 701 Beta Drive, Mayfield Village, Ohio 44143, a producer of women's sweaters, dresses, and sportswear (accepted October 27, 1978); and (3) Tack's Greenhouses, 1765 Scott Boulevard, Suite 107, Santa Clara, Calif. 95050, a grower of carnations (accepted October 27, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the

Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each 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 each 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 the 10th calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[FR Doc. 78-31110 Filed 11-2-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric
Administration

STONE CRABS

Draft Environmental Impact Statement/Draft
Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of public hearings.

SUMMARY: A draft environmental impact statement/fishery management plan for the stone crab fishery of the Gulf of Mexico has been prepared by the Gulf of Mexico Fishery Management Council in consultation with the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. It has been prepared under the authority of and pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and title III, section 303 of the Fishery Conservation and Management Act of 1976 and is available for public review and comment.

DATES AND ADDRESSES: The Gulf of Mexico Fishery Management Council will hold its public hearings at the following dates and locations at 7:30 p.m. and adjourning at 10 p.m. The South Atlantic Fishery Management Council will chair those public hearings in its jurisdiction.

November 27, Texas A. & M. Research and Extension Center Auditorium, Highway 44 (3 miles west of Corpus Christi), Corpus Christi, Tex.

November 28, South Carolina Department of Wildlife and Marine Resources Auditorium, Fort Johnson Road, Charleston, South Carolina; and Marine Center, Point Cadet, Biloxi, Miss.

November 29, City Hall Courtroom 33 South Coden Avenue, Bayou La Batre, Ala.

November 30, Village Inn, I-95 and Georgia Highway 99 (Eulonia-Townsend Exit), Townsend, Ga.; and Franklin County Courthouse, County Commissioner's Room, Market Street (U.S. 19), Apalachicola, Fla.

December 5, Holiday Inn, North Lumina Avenue, Wrightsville Beach, N.C.

December 7, Sheraton-Anastasia, Pope Road and Highway A1A, St. Augustine Beach, Fla.

December 11, Marathon High School Cafeteria, Sombrero Beach Road, Marathon, Fla.; and City Hall, Second Street, Cedar Key, Fla.

December 12, St. Petersburg, Junior College (Tarpon Springs Campus), 600 Klosterman Road, Tarpon Springs, Fla.; and Key West High School Auditorium, 2100 Flagler Avenue, Key West, Fla.

December 13, Fort Myers Exhibition Hall (Patio Room), Corner Henry Street and Edwards Drive, Fort Myers, Fla.

December 14, City Hall (City Commission Room), off State Road 29 on circle, Everglades City, Fla.

The hearings will be tape recorded, and the tapes will be filed as an official transcript of proceedings. A written summary will be prepared on each hearing.

Submit written comments to the contact person listed below by December 18, 1978, for the stone crab plan to receive full consideration in the plan development and amendment process.

FOR FURTHER INFORMATION
CONTACT:

Mr. Wayne Swingle, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609.

SUPPLEMENTARY INFORMATION:

The hearings will deal with a proposal to implement a stone crab fishery management plan in the Gulf of Mexico under authority of the Fishery Conservation and Management Act of 1976 (FCMA). The FCMA extends U.S. jurisdiction over marine fishery resources in a fishery conservation zone to 200 miles from the coastline. This plan is being developed by the Gulf of Mexico Fishery Management Council.

The environmental impact statement is a review of the plan and a statement of its expected impacts. A fishery management plan constitutes a major Federal action significantly affecting the human environment and requires the approval of the U.S. Secretary of Commerce, prior to implementation.

The draft plan for stone crabs, when approved will serve to manage the stone crab fishery for optimum yield and, therefore, contains regulatory measures applicable to domestic fishing. The management area is the west coast of Florida in the fishery conservation zone (FCZ) (Florida-Alabama State line southward to and including the Florida Keys).

The draft plan seeks to accomplish the following objectives: (1) Provide for orderly conduct of the fishery to reduce conflict between stone crab fishermen and other fishermen in the area; (2) establish an effective statistical reporting system for monitoring the fishery; (3) attain full utilization of the resource; and (4) promote uniformity of regulations.

Optimum yield for the stone crab harvest in 1979 has been set at 2.4 million pounds with no foreign allocation.

The draft plan contains several proposed management measures. It would establish a boundary line offshore of Monroe and Collier counties of Florida and prevent most shrimping inshore of the line from February 15 to April 15. This measure is intended to protect stone crab traps from damage and loss to shrimp trawlers. Other management measures proposed involve harvesting practices, the harvesting season, gear restrictions, and data collecting and reporting. Proposed measures

are, mostly, compatible with those now in effect in the territorial waters of Florida.

Signed in Washington, D.C., this 27th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-31054 Filed 11-2-78; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$4 (\$8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324.

Patent application 900,621: Flutter Prevention Means for Aircraft Primary Flight Control Surfaces, filed April 27, 1978.

Patent application 900,948: Real Time Digital Recording System for Thermovision Data, filed April 28, 1978.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 4,035,156: Filter Type Rotor for Multistation Photometer, filed January 21, 1977, patented July 12, 1977. Not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 842,840: Magnetometer Calibration Method and Apparatus, filed October 17, 1977.

Patent application 852,120: Diver's Composite Umbilical, filed November 16, 1977.

Patent application 861,236: Telephone System for Diver Communication, filed December 16, 1977.

Patent application 873,027: Temperature Measuring System, filed January 27, 1978.

Patent application 876,953: Laser Pile Cutter, filed February 13, 1978.

Patent application 882,040: Pneumatic Valve, filed February 28, 1978.

Patent application 882,849: Quick Response Humidity Chamber, filed March 3, 1978.

Patent application 888,266: Adaptive Line Enhancer, filed March 20, 1978.

Patent application 899,945: Releasable Electrical Connector, filed April 25, 1978.

Patent application 901,553: Weak Link Superconducting Switching Apparatus and Method, filed May 1, 1978.

Patent application 908,487: System for Measuring In-situ Acoustic Energy Properties of Ocean Floor Soils, filed May 22, 1978.

Patent application 965,323: Power Line Transient Suppressors, filed May 12, 1978.

Patent 4,084,255: Positional, Rotational and Scale Invariant Optical Correlation Method and Apparatus, filed November 2, 1976, patented April 11, 1978. Not available NTIS.

Patent 4,084,511: Electrolytic Timing Element, filed June 7, 1960, patented April 18, 1978. Not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

N78 27180 6: Intumescent-Ablator Coatings Using Endothermic Fillers, filed December 23, 1976, patented May 9, 1978. Not available NTIS.

Patent application 710,798: Flame Retardant Formulations and Products Produced Therefrom, filed May 30, 1978.

Patent application 912,276: Method of Manufacture of Bonded Fiber Flywheel, filed June 5, 1978.

Patent application 916,655: Self-Reconfiguring Solar Cell System, filed June 19, 1978.

Patent application 918,535: Viscosity Measuring Instrument, filed June 23, 1978.

Patent application 918,537: A Method of Purifying Metallurgical Grade Silicon Employing Reduced Pressure Atmospheric Control, filed June 23, 1978.

Patent application 918,867: A Transparent Photovoltaic Module, filed June 26, 1978.

Patent application 920,878: Low Density Bismaleimide-Carbon Microballoon Composites, filed June 30, 1978.

Patent application 920,879: An Improved Solar Cell and Method of Forming the Same, filed June 30, 1978.

Patent application 920,947: On-Site Ammonia Plant, filed June 30, 1978.

Patent application 921,626: Chelate-Modified Polymers for Atmospheric Gas Chromatography, filed June 30, 1978.

Patent application 921,627: Method for Analyzing Radiation Sensitivity of Integrated Circuits, filed June 30, 1978.

Patent 4,087,902: Field Effect Transistor and Method of Construction Thereof, filed June 23, 1976, patented May 9, 1978. Not available NTIS.

Patent 4,088,312: Variable Contour Securing System, filed September 27, 1977, patented May 9, 1978. Not available NTIS.

Patent 4,088,408: Device for Measuring the Contour of a Surface, filed November 3, 1976, patented May 9, 1978. Not available NTIS.

Patent 4,088,532: Targets for Producing High Purity 1-123, filed September 4, 1973, patented May 9, 1978. Not available NTIS.

Patent 4,088,926: Plasma Cleaning Device, filed May 10, 1976, patented May 9, 1978. Not available NTIS.

Patent 4,088,965: Charge Transfer Reaction Laser with Preionization Means, filed July 12, 1976, patented May 9, 1978. Not available NTIS.

Patent 4,089,209: Remote Water Monitoring System, filed August 4, 1977, patented May 16, 1978. Not available NTIS.

Patent 4,089,705: Hexagon Solar Power Panel, filed July 28, 1976, patented May 16, 1978. Not available NTIS.

[FR Doc. 78-3106 Filed 11-2-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Va. 22161 for \$4 (\$8 outside North American Continent). Requests for copies of patent applications must include the Pat.-Appl. number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street SW., Washington, D.C. 20324

Patent 4,077,857: Method for the Preparation of Perfluoroothers; filed February 23, 1977, patented March 7, 1978; not available NTIS.

Patent 4,078,417: Test Panel for Evaluating Inspection Penetrants; filed March 24, 1977, patented March 14, 1978; not available NTIS.

Patent 4,080,203: Silver Base Brazing Alloy; filed December 29, 1976, patented March 21, 1978; not available NTIS.

Patent 4,081,473: Fluoroalkyleneether Difunctional Compounds; filed October 29, 1976, patented March 28, 1978; not available NTIS.

Patent 4,086,232: Bis-Ethynyl Heterocyclic Compositions and Method of Synthesis; filed December 23, 1976, patented April 25, 1978; not available NTIS.

Patent 4,086,248: Ethynyl-Substituted Aromatic Anhydrides; filed December 15, 1976, patented April 25, 1978; not available NTIS.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent 3,988,429: Kit for the Rapid Preparation of /Sup 99 M/Tc Red Blood Cells; filed April 16, 1975, patented October 26, 1976; not available NTIS.

Patent 3,993,754: Liposome-Encapsulated Actinomycin for Cancer Chemotherapy; filed October 9, 1974, patented November 23, 1976; not available NTIS.

Patent 4,021,669: Nuclear Fuel Microsphere Gamma Analyzer; filed March 15, 1976, patented May 3, 1977; not available NTIS.

Patent 4,055,199: Nozzle Seal; filed June 3, 1975, patented October 25, 1977; not available NTIS.

Patent 4,073,624: Method for Fluorinating Coal; filed December 21, 1976, patented February 14, 1978; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent Application 860,086: Carbocyclic Analogs of Cytosine Nucleotides; filed December 13, 1977.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent application 895,694: Rotary Jaw Crusher; filed April 12, 1978.

Patent 4,055,830: Sonic Measuring System; filed July 14, 1976, patented October 25, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 4,082,583: Solventless Double Base Propellants and Method for Plasticizing MTN Nitrocellulose Propellants Without Use of Solvents; filed January 14, 1974, patented April 4, 1978; not available NTIS.

Patent 4,082,709: Low Leaching Antifouling Organometallic Polyesters; filed June 24, 1976, patented April 4, 1978; not available NTIS.

Patent 4,082,793: Aromatic Phosphinic Acids Containing Sulfone Linkage; filed February 9, 1977, patented April 4, 1978; not available NTIS.

Patent 4,083,031: Acoustic Presence Detection Method and Apparatus; filed July 23, 1970, patented April 4, 1978; not available NTIS.

Patent 4,083,235: Compressor Stall Warning System; filed May 25, 1977, patented April 11, 1978; not available NTIS.

Patent 4,084,047: Stable Alkaline Zinc Electrode; filed November 29, 1976, patented April 11, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for

Patent Matters, NASA CODE GP-2, Washington, D.C. 20546

- Patent application 910,992: Urine Collection Device; filed May 30, 1978.
 Patent application 923,758: Passive Propellant System; filed July 11, 1978.
 Patent 4,087,962: Direct Heating Surface Combustor; filed July 26, 1976, patented May 9, 1978; not available NTIS.
 Patent 4,088,018: Magnetic Suspension and Pointing System; filed June 17, 1977, patented May 9, 1978; not available NTIS.
 Patent 4,088,094: Tread Drum for Animals; filed March 31, 1976, patented May 9, 1978; not available NTIS.
 Patent 4,088,270: Two Dimensional Wedge/Translating Shroud Nozzle, filed March 31, 1976, patented May 9, 1978; not available NTIS.

[FR Doc. 78-31063 Filed 11-2-78; 8:45 am]

[3510-17-M]

Office of the Secretary

[Department Organization Order 25-5B;
 Transmittal-416]

DEPARTMENT ORGANIZATION ORDER SERIES

National Oceanic and Atmospheric Administration

This order effective October 16, 1978, supercedes the material appearing at 43 FR 6128 of February 13, 1978.

SECTION 1. Purpose. .01 This order prescribes the internal organization, management structure, and assignment of functions within the National Oceanic and Atmospheric Administration (NOAA). The scope of authority and functions of NOAA are set forth in Department Organization Order 25-5A.

.02 The purpose of this revision is to: (1) establish the NOAA Executive Secretariat (Section 3.) and the Office for Civil Rights (Section 4.); (2) establish the Office of Marine Mammals and Endangered Species and the Office of Habitat Protection within the National Marine Fisheries Service (Section 9.); (3) include the Office of State Programs and the Office of Coastal Energy Impact Programs under the Assistant Administrator for Coastal Zone Management (Section 10.); (4) redesignate the organizations reporting to the Assistant Administrator for Administration as offices in accord with their current organizational placement (Section 11.); and (5) establish the Office of Oceanography within the National Ocean Survey, and rename the Environmental Data Service as the Environmental Data and Information Service, and establish the Center for Environmental Assessment Services under it (Section 13.).

Sec. 2. Organization structure. The organization structure of NOAA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the

original of this document in the Office of the Federal Register.

Sec. 3. Office of the Administrator. .01 The Administrator of NOAA formulates policies and programs for achieving the objectives of NOAA and directs the execution of these programs.

.02 The Deputy Administrator assists the Administrator in formulating policies and programs and in managing NOAA.

.03 The Associate Administrator assists the Administrator and the Deputy Administrator in formulating policies and programs and in managing NOAA.

.04 The Executive Secretariat shall provide management and control of all correspondence addressed to or from the Administrator, Deputy Administrator and Associate Administrator; follow-up on action items assigned by the Administrator; advise NOAA officials regarding the Administrator's position on issues and on actions or decisions affecting their areas of responsibility; serve as the primary contact and coordination point for General Accounting Office and Department of Commerce audits; maintain the schedule for and coordinate the NOAA weekend duty officer system; and provide administrative and logistic support to the Office of the Administrator, the special staff offices, and such other offices as may be assigned.

Sec. 4. Special staff offices. .01 The Office of Congressional Liaison shall coordinate contacts with the Congress, except for contacts with the Congressional Appropriations Committees on matters relating to appropriation requests and related budget matters. The activities of this Office shall be carried out in coordination with and in recognition of the responsibilities of the Departmental Office of Congressional Affairs, and of the Departmental and NOAA General Counsels with respect to legislation.

.02 The Office of Public Affairs shall recommend objectives and policies relating to public affairs; plan and conduct an information and education program to insure that the public, Congress, user groups, and employees are properly informed on NOAA's activities; and provide direction to all public affairs activities within NOAA. These activities shall be carried out in collaboration with the Departmental Office of Public Affairs.

.03 The Office of Naval Deputy shall insure coordination and joint planning with the Navy on programs of mutual organizational interest.

.04 The Office of NOAA Corps shall develop plans for the efficient utilization of the NOAA commissioned officers corps; develop and implement policies and procedures for the recruitment, commissioning, training, and as-

signment of commissioned officers; and represent NOAA in interdepartmental activities having to do with the uniformed services.

.05 The Office for Civil Rights shall develop, direct and coordinate programs, policies and activities throughout NOAA to insure the effective fulfillment of NOAA's responsibilities in the areas of equal employment opportunity (EEO), including affirmative action, for employees and job applicants, and non-discrimination in activities and projects sponsored by NOAA Programs. The Office shall develop program policy recommendations; advise and assist NOAA elements in the performance of their EEO and civil rights responsibilities; monitor and evaluate the implementation of approved recommendations, affirmative action plans, and the effectiveness of NOAA in the areas of EEO and civil rights; monitor and evaluate compliance with civil rights or EEO statutes, executive orders or regulations; and administer NOAA's internal and external discrimination complaint systems, Race Relations Training Program, and Special Emphasis Programs. It shall work in close cooperation with the Office of Administration with respect to EEO and affirmative action within NOAA, so that policy direction and guidance may be provided to the personnel offices on EEO and affirmative action matters. The activities of this Office shall be carried out in cooperation with the Departmental Office of Civil Rights and the departmental and NOAA General Counsels.

Sec. 5. General Counsel. The General Counsel shall provide legal services for all components of NOAA, shall review and process claims against NOAA, and shall be responsible for the preparation or review of all legislative proposals emanating from any component of NOAA, for the expression of NOAA's views as to the merits of proposed or pending legislation, and for statements concerning pending legislation to be made before committees of Congress. These activities shall be carried out subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6. Legislative activities shall also be carried out in cooperation with the NOAA Office of Congressional Liaison.

Sec. 6. Assistant Administrator for Policy and Planning. The Assistant administrator for Policy and Planning shall provide staff advice on NOAA's objectives on program planning and on the development of policies of NOAA. The Assistant Administrator shall develop and recommend long-range policies and plans, including new program initiatives and modifications of policies and plans; conduct economic studies and operational analysis activities

in support of the policy and planning functions; identify and make recommendations concerning major national and international issues and problems affecting NOAA's programs, and conduct or direct or coordinate studies and analyses to provide solutions thereto; and serve as the special problem solving and conceptual office on policy development matters of a direct concern to the Administrator. In addition, the Assistant Administrator shall develop policy and provide management and coordination for NOAA's marine minerals programs; and act as NOAA's focal point in developing and coordinating these programs in relation to programs and requirements of other agencies, industry and other elements of the private sector.

SEC. 7. Office of Ocean Management. The Office of Ocean Management shall evaluate the impact of alternative uses for intensely used ocean and adjacent areas, and develop and recommend overall proposals that will result in optimum benefit for society. The Office shall direct and coordinate the assessment of the potential impacts of proposed human activities such as deepwater ports, offshore oil and gas development, power generation, ocean dumping, and recreation; administer the Marine Sanctuaries program; and make use, on a selective basis in coordination with the responsible offices, of other available mechanisms for expressing NOAA's views on proposals for the use of ocean and adjacent areas.

SEC. 8. Office of Program Evaluation and Budget. The Office of Program Evaluation and Budget shall provide the Administrator with means of management control over program and budget operations and program evaluations, and shall coordinate Management by Objectives activities. This Office shall be the focal point for contacts with the Department and the Office of Management and Budget in these areas. The Office shall specifically be responsible for the planning and management of the annual NOAA program review; the consolidation and integration of program guidance developed by the Assistant Administrators; the coordination and development of issue studies, Zero Based Budget material, and other supporting documentation required in the program-budget cycle; the development of the NOAA budget; the allocation and budgetary control of funds; the review and monitoring of fiscal plan execution; the design and implementation of program impact and efficiency evaluations; and the coordination of Departmental and OMB requirements and reporting activities necessary to the operation of the Office.

SEC. 9. Assistant Administrator for Fisheries. The Assistant Administrator

for Fisheries shall administer an integrated program of management, research, and services for the protection and rational use of living marine resources for their aesthetic, economic, and recreational value by the American people. The Assistant Administrator shall administer programs to determine the consequences of the naturally varying environment and human activities on living marine resources; to provide knowledge and services to foster their efficient and judicious use; and to achieve domestic and international management, use and conservation of living marine resources. To carry out these responsibilities, the Assistant Administrator shall have and direct the following units:

.01 The Office of the Assistant Administrator shall formulate, recommend, and execute basic policies relative to living marine resources and manage the National Marine Fisheries Service (NMFS). The Assistant Administrator shall be immediately assisted by a Deputy Assistant Administrator and an Executive Director. The Assistant Administrator, Deputy Assistant Administrator, and the Executive Director shall function as the Director, NMFS, Deputy Director, NMFS, and Associate Director, NMFS, respectively.

.02 The Office of Utilization and Development shall provide oversight for, and serve as the Assistant Administrator's principal source of advice on, all NMFS programs designed to improve the quality and safety of fish and seafoods, to assist the U.S. fishing industry, and to enhance the production, marketing, consumer awareness and acceptability of fishery products. The Office shall advise the Assistant Administrator and the Office of Science and Environment on the need for utilization technology research related to the harvesting, processing and marketing of fishery products and their use as human food; shall review and advise the Assistant Administrator on the utilization technology research plans of the Fisheries Centers; shall ensure coordination between such plans and other fishery development programs of the Office; shall manage a voluntary inspection and grading program for improving the quality and safety of seafoods; shall manage a tax deferred capital construction fund; and shall coordinate NMFS activities related to commercial aquaculture. The Office shall also develop policies, guidelines and procedures for, and provide national coordination of, the fishery development and industry assistance programs carried out by the Regional Offices, including programs of: (1) financial assistance in the form of loans, loan guarantees, and loan insurance; (2) consumer education and marketing to facilitate fishery devel-

opment and stability in the marketing chain; (3) fishery market news, including the preparation of market research reports and the provision of information on foreign trade and other matters which may affect the commercial fishing industry; and (4) regional fisheries development efforts designed to increase to market share of domestically produced seafoods.

.03 The Office of Resource Conservation and Management shall provide oversight for, and serve as the Assistant Administrator's principal source of advice on, all matters related to NMFS' fisheries management and marine recreational fisheries responsibilities. The Office shall develop national standards and operational guidelines for fisheries management programs, including the State-Federal Fisheries Management Program; shall review and recommend action on fisheries management plans; shall prepare implementing regulations as necessary; shall process applications and issue fishing permits; shall coordinate programs involving the enforcement of laws and regulations promulgated to protect fisheries resources, marine mammals and endangered species; and shall coordinate the provision of funding and such other administrative and technical support as may be required by the Regional Fisheries Management Councils. The Office shall also coordinate the planning and development of multidisciplinary programs in marine recreational fisheries.

.04 The Office of International Fisheries Affairs shall serve as the Assistant Administrator's principal source of advice on all matters related to international fisheries. The Office shall develop policy positions on international fisheries issues; shall acquire data and provide analyses regarding the status and impact of present and projected foreign fishing, industry activity and government attitudes and policies regarding fishing; shall participate in negotiations within, and the operations of, international forums, commissions and agreements, as requested; shall manage NOAA's international fisheries training program; and shall monitor and coordinate activities with regard to the U.S. Fisheries Attache Program.

.05 The Office of Science and Environment shall provide oversight for, and serve as the Assistant Administrator's principal source of advice on, all aspects of the NMFS research program. The Office shall develop policy and guidelines and provide national coordination for the planning and development of a multidisciplinary program of biological and socio-economic research necessary to provide information on fisheries management options to the appropriate Regional Fisheries Management Councils, to support na-

tional and regional programs including those related to utilization technology, marine mammals and endangered species and habitat protection, and to respond to the needs of various user groups; shall review and advise the Assistant Administrator on the research plans of the Regional Centers; and shall advise the Assistant Administrator on the needs for oceanic research and services which should be undertaken by the Offices of Research and Development and Oceanic and Atmospheric Services to meet the special needs of the fisheries industry. As the principal headquarters focus for scientific expertise, the Office shall serve as the primary liaison with other government agencies and the scientific community on the national level regarding scientific and technical matters.

.06 The Office of Marine Mammals and Endangered Species shall serve as the Assistant Administrator's principal source of advice on all matters related to the conservation and protection of those marine mammals and endangered species under the jurisdiction of the Secretary of Commerce. The Office shall advise the Assistant Administrator and the Office of Science and Environment on the need for research related to marine mammals and endangered species; shall review and advise the Assistant Administrator on the marine mammals and endangered species research plans of the Fisheries Centers; and shall ensure coordination between such plans and other conservation and protection programs of the Office. The Office shall prepare regulations and other public notices; shall conduct public hearings and meetings; shall prepare and review management plans; shall issue permits to take marine mammals or endangered species; shall assist the Office of Resource Conservation and Management in coordinating enforcement programs related to marine mammals and endangered species; and shall provide technical support for international negotiations and the Marine Mammal Commission. In cooperation with the Northwest Regional Office, the Office shall also manage the Pribilof Islands Program which includes the administration of the Pribilof Islands and related fur seal harvest.

.07 The Office of Habitat Protection shall serve as the Assistant Administrator's principal source of advice on all matters related to the environmental impact of human activities on the Nation's commercial fisheries and living marine resources and their habitats. The Office shall advise the Assistant Administrator and the Office of Science and Environment on the need for research related to habitat protection; shall review and advise the Assistant Administrator on the habi-

tat protection research plans of the Fisheries Centers; and shall coordinate such plans with other habitat protection programs of the Office. The Office shall advise the Assistant Administrator on the effect that energy production efforts, outer continental shelf development activities, coastal zone planning and development programs and other similar activities have on commercial fishery and living marine resources and their habitats; shall coordinate the preparation of NMFS comments on construction and waste discharge permits, Federal water projects and other agencies' Environmental Impact Statements; shall determine the degree to which such activities comply with national policies; and shall be the NMFS focus for NOAA and interagency liaison on all matters related to habitat protection.

.08 The *Field Structure* shall consist of the following organizational elements: A copy of Exhibit 2 is on file with the original of this document in the Office of the Federal Register.

a. Five *Regional Offices* as shown in Exhibit 2. Regional Offices shall serve as the regional representative of the Assistant Administrator with State conservation agencies, recreational interests, the fishing industry, other constituencies, and the general public. In cooperation with appropriate headquarters offices and in accordance with the policies, guidelines and procedures provided by the Assistant Administrator, the Regional Offices shall plan, organize and manage regional programs; in fishery management, including the administration of grant programs, the provision of administrative and technical support to the Regional Fisheries Management Councils within the geographic area of responsibility, and initial review of fishery management plans; in fisheries development and industry assistance, including the administration of financial assistance programs; in recreational fisheries; and in other service areas throughout the program range of NMFS. The Regional Offices shall coordinate the planning and implementation of these programs with the Regional Fisheries Centers and with other nations and agencies as appropriate. They shall provide administrative support to other NMFS components within their geographic boundaries. The Director of each Regional Office shall report and be responsible to the Assistant Administrator.

b. In cooperation with appropriate headquarters offices and in accordance with the policies and guidelines provided by the Assistant Administrator, the Northeast, Southeast, Northwest, Southwest, and Alaska *Fisheries Centers* shall plan, develop and manage multidisciplinary biological and socioeconomic research programs

necessary to provide fisheries management information and management options to the Regional Fisheries Management Councils, to support national and regional programs of the NMFS, and to respond to the needs of various user groups. The Centers shall develop the scientific base for status of stocks, status of fisheries including both socioeconomic and biological aspects, environmental assessment and environmental impact statements; shall collect, document and interpret scientific and economic data as technical support for management plans, international negotiations, fishery development and food engineering programs; shall provide technical review and monitoring of fisheries plans and grant programs; shall pursue fundamental and applied research on specified topics such as marine mammals, endangered species, food science, fishing, oceanography, and aquaculture; and shall maintain liaison with the scientific community at the regional level. The Director of each Fisheries Center shall report and be responsible to the Assistant Administrator.

SEC. 10. ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT

The *Assistant Administrator for Coastal Zone Management* shall administer and establish policy for NOAA's coastal zone management activity which includes the following programs: State programs of coastal zone management; estuarine sanctuary program; coastal energy impact program; and other closely related programs. The Assistant Administrator for Coastal zone management shall serve as the primary program policy officer with authority and responsibility for implementing the programs authorized in the Coastal Zone Management Act of 1972, as amended in 1976. To carry out these responsibilities, the Assistant Administrator shall have and direct the following units:

.01 The *Office of the Assistant Administrator* shall manage and direct the Office of Coastal Zone Management; formulate, recommend, and execute basic policies relative to coastal zone management; and provide advice to the Administrator on NOAA's coastal zone management effort. The Office shall develop NOAA policy, promulgate regulations, and implement procedures necessary for Federal review and approval of State coastal management programs and the execution of Federal consistency provisions which then come into force. It shall serve as the focal point for Federal interagency coordination and Federal-State consultation efforts on all matters relating to the management of the Nation's coastal areas. The Office shall serve as the Federal Government focal point regarding the operation of the Federal

programs affecting the Nation's coastal zones and the consistency of these programs with the policies contained in the Coastal Zones Acts of 1972 and 1976. The Office shall develop policies and guidelines, and administer the estuarine sanctuary and shorefront access programs, and shall administer and monitor grants to States in support of these programs.

.02 The *Office of State Programs* shall develop policies and guidelines on a continuing basis to assist State and local governments in the effective management and, where possible, the restoration and enhancement of the land and water resources of the coastal zone of the Nation. The Office shall administer and monitor grants to States in support of the development and administration of coastal zone management programs.

.03 The *Office of Coastal Energy Impact Programs* shall develop policies and guidelines on a continuing basis to assist State and local governments in planning for the consequences of, and impacts on, the Nation's coastal zones due to accelerated energy development activities. The Office shall administer and monitor an energy impact financial assistance program consisting of loans, bond guarantees, planning grants, environmental grants, and formula grants, each subject to specified conditions, for the purpose of meeting needs of States and local governments resulting from new or expanded energy activity in, or affecting, the coastal zone.

SEC. 11. ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

The *Assistant Administrator for Administration* shall provide administrative management and support services for all components of NOAA except for elements of such services that appropriate components are directed to provide for themselves, exercise functional supervision over such decentralized services, and provide advice and guidance to the Administrator on the utilization of NOAA resources. To carry out these responsibilities, the Assistant Administrator shall have and direct the following units.

.01 The *Office of the Assistant Administrator* shall formulate, and execute the basic policies and manage the Office of Administration.

.02 The *Office of Administrative Operations* shall administer programs in procurement and grants management; property and supply management; forms, correspondence, records, and files management; space and facilities management; travel and traffic management; mail, messenger, and related office services; graphic services; safety; and security.

.03 The *Office of Management and Computer Systems* shall conduct stud-

ies and provide analytical assistance to develop or improve the organization and staffing structure and other management systems within NOAA; provide management staff services in the application of advanced management principles and techniques; carry out the NOAA committee, reports and directives management functions; develop and maintain a central system for collecting, analyzing, presenting, and disseminating information on program status and performance; provide guidance and develop systems for measuring productivity and performance; exercise overall management, planning and coordination of NOAA's automatic data processing and telecommunications needs and facilities including serving as the focal point within NOAA for intra- and inter-agency matters, and the review and evaluation of proposals for automatic data processing and telecommunications requirements and systems; coordinate the Federal planning program for environmental telecommunications systems; and engage in research into advanced system concepts and apply or provide guidance in the application of these concepts. The Office shall provide systems analysis and programming support to NOAA's executive and administrative management functions and to other NOAA functions as requested, and shall operate and provide automatic data processing facilities and systems and special software support for all NOAA components except where separate facilities are approved.

.04 The *Office of Personnel* shall administer a program of personnel management services including conducting recruitment, employment, classification, and compensation, employee relations and assistance, labor relations, incentive awards, and career development activities for civilian personnel. This shall include, in coordination with the Office of Civil Rights on EEO and civil rights matters, upward mobility and cooperative education student programs, equal employment opportunity programs, and affirmative action plans.

.05 The *Office of Finance* shall provide centralized financial accounting and payroll for all components of NOAA, determine needs of managers for accounting data, and maintain a financial reporting system that will facilitate effective management of NOAA's financial resources.

.06 The *Office of Radio Frequency Management* shall, as a Departmentwide responsibility, coordinate the requirements and the management and use of radio frequencies by all organizations of the Department of Commerce.

.07 The *Northwest Administrative Service Office* shall provide administrative services responsive to the re-

quirements of the NMFS Northwest, Southwest, and Alaska Regions, the NMFS Northwest and Alaska Fisheries Center and Southwest Fisheries Center, the NOS Pacific Marine Center, and such other NOAA organizational units which can be accommodated. These services shall include personnel administration, finance, procurement and contracting, property management, motor vehicle pool operation, and offices services.

*SEC. 12. ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

The *Assistant Administrator for Research and Development* shall administer an integrated program of research, technology and advanced engineering development and transfer relating to the oceans, the Great Lakes, the United States coastal waters, the lower and upper atmosphere and the space environment, so as to increase understanding of the environment and human impact thereon, and thus provide the scientific basis for improved services. The Assistant Administrator for Research and Development shall serve as the principal adviser to the Administrator on all research, technology and engineering matters. To carry out these responsibilities the Assistant Administrator shall have and direct the following units:

.01 The *Office of the Assistant Administrator* shall formulate, recommend, and execute basic policies and manage the Office of Research and Development; provide advice to the Administrator on NOAA's total research and technology development effort; and advise the National Marine Fisheries Service and the Offices of Coastal Zone Management, and Ocean and Atmospheric Services on the research and technology development undertaken within their organizations to meet their special needs. It shall serve as NOAA's focal point for coordination with the Office of Science and Technology Policy; the Federal Coordinating Council for Science, Engineering, and Technology; National Science Foundation; National Academy of Sciences; National Academy of Engineering; universities; interagency groups; and international scientific bodies on matters affecting research and technology programs. The Office shall discharge those coordinating and management functions for research and technology development which are assigned to NOAA for the global atmospheric research program, and others, as may be assigned by the Administrator; provide a focal point for NOAA's research activities in support of international environmental programs such as the United Nations Environment Program (UNEP), United Nations Inter-governmental Oceanographic Commission, bilateral agree-

ments with other nations, and such others as the Administrator may assign; and promote the transfer of research information and new technology to other components of NOAA and to other scientific organizations outside of NOAA.

.02 The Office of Sea Grant (SG) shall develop policy and plans for NOAA's association with the academic community and administer a program of grants and contracts for research, education, and advisory services aimed at the development, utilization, and management of the seas and the Great Lakes of the United States, including their resources.

.03a. The Office of Ocean Engineering (OOE) shall develop policy and plans for NOAA's ocean engineering and instrumentation program and promote the development of technology to meet future needs of the marine community; conduct an integrated program of research, technology development, and services related to ocean engineering instrumentation and measurement standards, ocean buoy systems, and undersea operations; manage the NOAA diver program; and serve as a national focal point for transfer of knowledge related to civilian ocean engineering, a catalyst for industrial ocean engineering development, and a mechanism for technology transfer from military and space field.

b. The OOE organization shall consist of the following:

Office of the Director;
NOAA Data Buoy Office;
Ocean Instrumentation Engineering Office; and
Manned Undersea Science and Technology Office.

.04a. The Environmental Research Laboratories (ERL) shall conduct research to describe, understand and improve the prediction of oceanic processes and phenomena, ocean-atmosphere interactions, and the environmental processes of coastal areas; conduct research on the physics and chemistry of the atmosphere; conduct research on the dynamics and physics of geophysical fluids systems to describe, understand and improve predictions of the State of atmosphere and oceans, and their processes; develop techniques and maintain facilities to support the conduct of research and monitoring activities; measure and monitor the atmospheric composition for use in predicting and validating trends in atmospheric conditions; and conduct research to describe, understand and improve prediction of environmental processes in the Great Lakes and their watershed. The Office shall also conduct research in the field of solar-terrestrial physics; provide monitoring and forecasting of the

space environment; and improve techniques for forecasting of solar disturbances and their effects on the earth's environment. It shall plan, conduct and coordinate comprehensive programs of basic and applied research directed toward the solution of resource-use problems which involve the functioning, health, and restoration of selected near-coastal marine ecosystems; and plan and direct assessments of the primary environmental effects of energy development along broad areas of the Outer Continental Shelf of the United States.

b. The ERL organization shall consist of the following:

Office of the Director;
Office of Programs;
Office of Research Support Services;
Weather Modification Program Office;
Marine Ecosystems Analysis Program Office;
Outer Continental Shelf Environmental Assessment Program Office;
Atlantic Oceanographic and Meteorology Laboratories;
Pacific Marine Environmental Laboratory;
Great Lakes Environmental Research Laboratory;
Aeronomy Laboratory;
Air Resources Laboratory;
Atmospheric Physics and Chemistry Laboratory;
Geophysical Fluid Dynamics Laboratory;
National Hurricane and Experimental Meteorology Laboratory;
National Severe Storms Laboratory;
Research Facilities Center;
Space Environment Laboratory; and
Wave Propagation Laboratory.

SEC. 13. ASSISTANT ADMINISTRATOR FOR OCEANIC AND ATMOSPHERIC SERVICES

The Assistant Administrator for Oceanic and Atmospheric Services shall administer programs which entail monitoring and predicting the state of the physical environment, to provide a wide variety of meteorologic, hydrologic, climatologic, map and chart, geodetic, and oceanographic data and services to government, industry, the scientific and engineering communities, and the general public. To carry out these responsibilities, the Assistant Administrator shall have and direct the following units.

.01 The Office of the Assistant Administrator shall formulate, recommend, and execute basic policies and programs; with appropriate support of other offices, act as the NOAA focal point for participation in international meteorological, hydrologic, oceanic, and climatological activities, including the international exchange of data, service, products and forecasts, of the World Meteorological Organization, the International Civil Aviation Organization, and other bodies as may be

designated by the Administrator; be responsible for and administer programs for NOAA support in time of civil emergencies, the conduct of post-disaster surveys designed to evaluate the effectiveness of NOAA's warning services, and the cooperation between NOAA and the Department of Defense in time of a declared national emergency; and discharge the Federal coordinating functions assigned to NOAA for meteorology, marine prediction services, geodetic surveys, operational satellite systems, and others that may be assigned by the Administrator. In consultation with National Marine Fisheries Service and the Offices of Coastal Zone management and Research and Development, the Office shall design and execute service programs intended to meet the needs of these other elements of NOAA and their constituencies. In consultation with the Office of Research and Development, it shall design and execute research and technology development programs; conduct systems, equipment, and techniques development programs; and carry out related activities designed to improve the efficiency of service programs and the responsiveness of these programs to user needs. The Office also shall determine and validate requirements for oceanic and atmospheric services; evaluate the efficiency and economy with which the service programs meet these needs; and take such steps as are feasible to improve services to meet new or changing needs.

.02a. The National Ocean Survey (NOS) shall provide charts for the safety of marine and air navigation; provide a basic network of geodetic control; provide basic geodetic, gravimetric, bathymetric, hydrologic, circulatory current, and tidal data for engineering, scientific, commercial, industrial, and defense needs; monitor the marine environment to assess human impacts, including those from ocean dumping; and undertake a program of marine technology development to observe, measure, and chart oceanic phenomena and resources. In performance of these functions, it shall conduct surveys, investigations, analyses, and research and technology development; and shall disseminate data in the fields of geodesy, gravity, astronomy, aeronautical charting, hydrography and nautical charting, oceanography, and marine technology.

b. The NOS organization shall consist of the following:

Office of the Director;
Office of National Geodetic Survey;
Office of Fleet Operations;
Office of Marine Surveys and Maps;
Office of Oceanography;
Office of Aeronautical Charting and Cartography;
Office of Marine Technology;

Office of Program Development and Management;
Atlantic Marine Center; and
Pacific Marine Center.

.03a. The *National Weather Service* (NWS) shall observe and report the meteorological, hydrological, and ocean conditions of the United States, its possessions, and adjacent waters; issue forecasts and warnings of weather and climate, flood, and physical ocean conditions that affect the Nation's safety, welfare, and economy; develop the National Meteorological, Hydrologic and Oceanic Service Systems; provide forecasts for domestic and international aviation and for coastal areas and shipping on the high seas; and operate a tsunami warning system.

b. The NWS headquarters organization shall consist of the following:

Office of the Director;
Office of Meteorology and Oceanography;
Office of Hydrology;
Office of Technical Services;
Systems Development Office; and
National Meteorological Center.

c. The *Field Structure* shall consist of six regions, as shown in Exhibit 3, with field stations and the National Weather Service Training Center. (A copy of Exhibit 3 is on file with the original of this document in the Office of the Federal Register.)

.04a. The *National Environmental Satellite Service* (NESS) shall provide observations of the environment by operating the National Environmental Satellite System, develop and improve satellite techniques, increase the utilization of satellite data in environmental services, and manage and coordinate all operational satellite programs within NOAA and certain research-oriented satellite activities with the National Aeronautics and Space Administration and the Department of Defense.

b. The NESS headquarters organization shall consist of the following:

Office of the Director;
Office of Operations;
Office of Systems Engineering;
Office of Research; and
Office of Systems Integration.

c. The *Field Structure* shall consist of Satellite Field Service Stations and Data Acquisition Stations which shall report to the Office of Operations.

.05a. The *Environmental Data and Information Service* (EDIS) shall acquire and disseminate global environmental data (marine, atmospheric, solid earth, and solar-terrestrial) and information tailored to meet the needs of users in commerce, industry, agriculture, the scientific and engineering communities, the general public, and Federal, State, and local governments;

provide experiment design, data management, and analysis support to national and international environmental programs; assess the impact of environmental fluctuations on food and energy, environmental quality, and telecommunications; manage and/or provide functional guidance for NOAA's scientific and technical publication and library activities; operate a network of specialized service centers, a field liaison service, and a comprehensive data and information referral service; and operate related World Data Center A facilities and participate in other international data and information exchange programs.

b. The EDIS organization shall consist of the following:

Office of the Director;
Environmental Science Information Center;
National Oceanographic Data Center;
Center for Environmental Assessment Services;
National Climatic Center; and
National Geophysical and Solar-Terrestrial Data Center.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary
for Administration.

[FR Doc. 78-31077 Filed 11-2-78; 8:45 am]

[3510-17-M]

[Department Organization Order 21-5;
Transmittal 415]

OFFICE OF POLICY PLANNING AND PROGRAMS

Organization Order

This order is effective September 19, 1978

Section 1. *Purpose.* This Order establishes the Office of Policy Planning and Programs and prescribes its functions.

Section 2. *Establishment.* Pursuant to the authority vested in the Assistant Secretary for Policy by Department Organization Order 10-2 of November 18, 1977, the Office of Policy Planning and Programs is established as a Departmental office.

Section 3. *Status and line of authority.* The Office of Policy Planning and Programs, a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Policy.

Section 4. *Functions.* The Office of Policy Planning and Programs shall function as a liaison, review, and coordination group on budget, policy studies, and administrative matters of direct concern to the Assistant Secretary for Policy. In this capacity, the Office shall:

a. Provide liaison between the Assistant Secretary for Policy and the Assistant Secretary for Administration

on Departmentwide budget, program evaluation, personnel, organization, management and other administrative matters, and coordinate the input and activities of other offices reporting to the Assistant Secretary for Policy that are related to these matters;

b. Coordinate participation by the offices reporting to the Assistant Secretary for Policy in the preparation of the Department's annual legislative program and, as assigned, coordinate policy input to the development and review of other legislative proposals having a major impact on Commerce mission, objectives, and programs;

c. Coordinate the development of an annual policy studies program by the offices reporting to the Assistant Secretary for Policy; provide administrative support in the initiation, monitoring, review, and publication of policy studies; review and monitor the study programs of other Departmental offices and operating units to determine their policy content and implications; when necessary or desirable, arrange for participation in these other study efforts by offices reporting to the Assistant Secretary for Policy, and coordinate the study program of the Assistant Secretary for Policy with those of other Departmental offices and operating units;

d. Provide assistance, coordination, and staff support to the Assistant Secretary for Policy as Co-Executive Director of the Commerce Council, coordinate the preparation of the Secretary's cabinet briefing book, and provide other information coordination services;

e. As assigned, provide staff support to the Assistant Secretary for Policy in the identification, analysis, and monitoring of special policy issues and other short-term staff activities and special projects; and

f. Coordinate internal budget, administrative, and personnel management matters for all offices reporting to the Assistant Secretary for Policy.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary
for Administration.

[FR Doc. 78-31076 Filed 11-2-78; 8:45 am]

[3510-25-M]

Amending Import Levels for Certain Cotton
and Man-Made Fiber Products

HAITI

Committee for the Implementation of Textile
Agreement

OCTOBER 30, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the levels of restraint established for certain cotton and man-made fiber apparel products

in Categories 348, 359, 632, 636, 637, 650, 651, and 652 from Haiti under the terms of an amendment to the bilateral textile agreement.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: On October 13, 1978, the Governments of the United States and Haiti exchanged letters further amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22 and 23, 1976, as amended, to increase the levels of restraint for cotton and man-made fiber textile products in Categories 348, 359, 632, 636, 637, 650, 651, and 652, produced or manufactured in Haiti and exported to the United States during the 12-month period which began on January 1, 1978.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Shirley Hargrove, Trade Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION:

On December 29, 1977, there was published in the FEDERAL REGISTER (42 FR 64919) a letter dated December 23, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing specific levels of restraint for certain cotton and man-made fiber textile products from Haiti, during the 12-month period which began on January 1, 1978, pursuant to the terms of the bilateral agreement. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established levels of restraint for Categories 348, 359, 632, 636, 637, 650, 651, and 652 to the designated amounts for the agreement year which began on January 1, 1978 in accordance with the amended bilateral agreement.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY
FOR INDUSTRY AND TRADE,
Washington, D.C., October 30, 1978.

**COMMITTEE FOR THE IMPLEMENTATION OF
TEXTILE AGREEMENTS**

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangements Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22 and 23, 1976, as amended, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 6, 1978, the levels of restraint established for Categories 348, 359, 632, 636, 637, 650, 651 and 652 to the following:

*Category and Amended 12-Month Level of
Restraint¹*

348—112,360 dozen.
359—543,478 pounds.
632—1,521,739 dozen pairs.
636—99,338 dozen.
637—281,690 dozen.
650—58,824 dozen.
651—61,538 dozen.
652—456,250 dozen.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
*Acting Chairman, Committee for the
Implementation of Textile Agree-
ments.*

[FR Doc. 78-31078 Filed 11-2-78; 8:45 am]

[3510-25-M]

**COMMITTEE FOR THE IMPLEMENTA-
TION OF TEXTILE AGREEMENTS**

ROMANIA

Adjusting Import Restraint Level for Certain
Man-Made Fiber Textile Suits From the So-
cialist Republic of Romania

NOVEMBER 1, 1978.

AGENCY: Committee for the Imple-
mentation of Textile Agreements.

ACTION: Granting an increase for carryover and carryforward in part of Category 643/644 (men's and boys', women's, girls', and infants' suits of man-made fibers, not knit) during the agreement year which began on January 1, 1978.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published

¹The levels of restraint have not been adjusted to account for any imports after December 31, 1977.

in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Paragraph 6 of the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania provides for the carryover of shortfalls in certain category ceilings from the previous agreement year and for the borrowing of yardage from the succeeding year's levels, such amounts to be deducted from the affected category limits in the succeeding year. Pursuant to the foregoing paragraph of the bilateral agreement, the import restraint level established for Category 643/644 (pt.) is being increased to 20,857 dozen for the 12-month period which began on January 1, 1978 and extends through December 31, 1978, at the request of the Government of the Socialist Republic of Romania.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION:

On May 24, 1978, there was published in the FEDERAL REGISTER (43 FR 22232) a letter dated May 19, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing import restraint levels for certain wool and man-made fiber textile products under the new textile category system for the agreement year which began on January 1, 1978. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established level of restraint for Category 643/644 (pt.) to 20,857 dozen.

EDWARD GOTTFRIED,
*Acting Chairman, Committee for the
Implementation of Textile
Agreements.*

COMMITTEE FOR THE
IMPLEMENTATION
OF TEXTILE AGREEMENTS,
November 1, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 30, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Govern-

ments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on November 3, 1978, the 12-month level of restraint established in the directive of May 19, 1978 for Category 643/644 (pt.) to the following:

Category and Amended 12-Month Level of Restraint¹

643/644—20,857 dozen.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the
Implementation of Textile Agree-
ments

[FR Doc. 78-31231 Filed 11-2-78; 8:45 am]

**COMMITTEE FOR PURCHASE FROM
THE BLIND AND OTHER SEVERELY
HANDICAPPED**

PROCUREMENT LIST 1978

Proposed Deletions

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

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1978 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 6, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 7510

Eraser, Mechanical

¹The amended level of restraint has not been adjusted to account for any entries after Dec. 31, 1977.

7510-00-865-5292

7510-00-082-2665

Class 6530

Wrappers, Sterilization

6530-00-719-0000

6530-00-299-9602

6530-00-719-0030

6530-00-299-9601

6530-00-719-0035

6530-00-299-9600

6530-00-719-0040

6530-00-299-9599

6530-00-719-0045

6530-00-850-8613

Class 7920

Sponge, Cellulose

7920-00-559-8462—Coral

7920-00-559-8463—Green

7920-00-559-8464—Yellow

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-31108 Filed 11-2-78; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1978

Addition

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

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 3, 1978.

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 August 4, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 34520) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1978:

Class 8440. Neckerchief (polyester, black) 8440-LL-L07-7000

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-31109 Filed 11-2-78; 8:45 am]

[6560-01-M]

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL 1001-3; OPP 180240]

**FLORIDA DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

**Issuance of a Specific Exemption To Use
Permethrin to Control Vegetable Leafminers**

The Environmental Protection Agency (EPA) has granted a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use permethrin on 750 acres of chrysanthemums to control vegetable leafminers in seven counties in Florida. This exemption was granted in accordance with, and is subject to, provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

The vegetable leafminer, *Liriomyza sativae*, Blanchard, has periodically plagued various Florida crops, including flowers, since the late 1960's, reaching epidemic proportions in 1977. The leafminers damage flowers by depositing eggs directly into the leaf so that developing larvae tunnel through the leaf, removing much of its photosynthetic mesophyll layer. In flowers, damage occurs either directly to the petals, or to the photosynthetic leaf tissues, decreasing the plant's vigor. Leaves, and in many cases, whole branches of the plants, die. The mines left by these pests are also excellent points of entry for bacterial and fungal pathogens. In vegetable crops, this damaged foliage can be trimmed, but in the flower market, the Applicant stated, value is largely dependent on the quality of the foliage, so that damage can be quite detrimental to the crop's value.

According to the Applicant, none of the many registered pesticides for leafminer control on chrysanthemums is effective due to the leafminer's developed resistance. Various attempts at integrated pest management have been made by University of Florida

personnel as well as by growers. According to the Applicant, however, chemical control is the only means available to reverse the epidemic populations of the pest.

The Applicant proposed to use Ambush, a product manufactured by ICI Americas, Inc., which contains the active ingredient (a.i.) permethrin. State-certified applicators would make ground applications in Broward, Dade, Glades, Lee, Martin, Palm Beach, and St. Lucie Counties.

Chrysanthemums grown for cut flowers are valued at \$25,000 per acre, the Applicant reported, and it is estimated that there are 750 acres of mums grown in the State. The Applicant claimed that losses of cut flowers already exceed \$1 million, and will become much greater without this use of permethrin. Additionally, mum plant cuttings, sold to other growers throughout North America and Europe, are not marketable if they contain leafminers, and the European Common Market is considering a total ban on Florida cuttings to avoid importing *L. sativae* to Europe, the Applicant stated.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of vegetable leafminers on chrysanthemums has occurred; (b) resistance has developed to the pesticides presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1978, to the extent and in the manner set forth in the application, subject to the following modifications and conditions:

1. The product Ambush, manufactured by ICI Americas, Inc., is authorized;
2. Ambush will be applied at a rate of 0.05 to 0.10 pound a.i. per acre;
3. A maximum of 15 applications may be applied on 550 acres grown for cuttings. A maximum of 22 applications may be made on 200 acres grown as propagative material. A maximum of 1,150 pounds a.i. is authorized;
4. All applications will be made with broadcast ground equipment;
5. Applications will be made at intervals of no less than 5 days;
6. All applications will be made by State-certified commercial applicators;
7. All applicable directions, restrictions, and precautions on the product label must be followed;

8. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees is actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

9. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes, and estuaries. Care must be taken to prevent contamination of water by cleaning of equipment or disposing of waste;

10. All personnel involved in the preparation and application of Ambush must wear protective clothing (long-sleeve shirts, full trousers, and nonpermeable boots) and a respirator. During the mixing and loading operations, gloves and an apron must also be worn;

11. A 60-day crop rotation restriction shall be observed for food crops;

12. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by January 31, 1979; and

13. The EPA shall be immediately informed of any adverse effects resulting from use of permethrin in connection with this exemption.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: October 27, 1978.

DOUGLAS D. CAMPT,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-31059 Filed 11-2-78; 8:45 am]

[6560-01-M]

[FRL 1001-4; OPP-180241]

NORTH CAROLINA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Methomyl To Control Fall Armyworm on Forage Grasses

The Environmental Protection Agency (EPA) has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use methomyl for control of the fall armyworm on 131,000 to 262,000 acres of tall fescue, orchard grass, Italian ryegrass and small grains. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, Room E-315, 401 M Street SW., Washington, D.C. 20460.

Tall fescue (*Festuca arundinacea*), orchard grass (*Dactylis glomerata*), Italian ryegrass (*Lolium multiflorum*) and small grains (several species) comprise a major portion of cool season forage grown in North Carolina. Total acreage for each of these grasses used for grazing is about 720,000 for tall fescue, 360,000 for orchard grass, 80,000 for Italian ryegrass, and 150,000 for small grains. Many growers depend on these crops as the primary source of cattle feed. According to the Applicant, North Carolina growers cannot afford additional losses due to armyworm damage. Damages equal to or greater than those encountered in previous years are expected if an effective pesticide is not used. Fields where infestations are heavy may be stripped, eliminating grazing in the late fall months in a year when such grazing will be essential for maintenance of productive herds. According to the Applicant, growers may be forced to sell off their herds if forage or hay is not available at a price they can afford.

The fall armyworm overwinters in the Gulf Coast region and migrates northward each summer. They fluctuate greatly in abundance north of their overwinter sites and undergo cycles which reach destructive peaks. According to the Applicant, there is usually only one generation in each locality in North Carolina each season; however, several overlapping generations are known to occur. Like the true armyworm, the caterpillars often move from field to field in large numbers devouring the foliage and tender stems of field and vegetable crops. Although they feed on a variety of crops, plants of the grass family are probably the preferred food.

The following pesticides are registered for use on forage grasses: carbaryl, methoxychlor, methyl parathion, parathion, and trichlorophon. However, under field conditions in North Carolina in 1975, 1976, and 1977, none of these gave adequate control. Methomyl was reported effective for fall armyworm control when used in several States in 1977 as authorized by specific exemptions granted by EPA.

The specific exemption allows treatment of forage grasses with applications of methomyl at the rate of one-quarter to one-half pound active ingredient per acre per application on 131,000 to 262,000 acres throughout North Carolina. A maximum of three

applications may be applied; application will be by ground or aerial equipment.

After reviewing the application and other available information, EPA has determined that (a) a fall armyworm outbreak has occurred on forage grasses; (b) there is no pesticide presently registered and available for use that gives effective control of the fall armyworm in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fall armyworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Insecticidal products containing the active ingredient methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) may be used at a dosage rate of one-quarter to one-half pound of active ingredient per acre;

2. A maximum of three applications may be made;

3. A maximum of 65,500 pounds of active methomyl may be applied;

4. Applications may be made by either State-licensed commercial applicators or State-certified private applicators using air or ground equipment;

5. There must be a waiting period of seven days before grazing, feeding, or cutting for hay or for dehydration and processing into meal and pellets;

6. Green grass with residue levels of methomyl not exceeding 5.0 ppm, and cured hay and ground or pelletized meal with residues of methomyl not exceeding 10.0 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

7. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid spray drift to nontarget areas;

8. All applicable directions, restrictions and precautions on the product label must be followed;

9. The Applicant is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by September 1, 1979;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption; and

11. The State of North Carolina and concerned growers must pursue permanent tolerances for methomyl

through regular channels if the fall armyworm is likely to continue to be a pest of forage grasses in North Carolina.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: October 27, 1978.

DOUGLAS D. CAMPT,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-31060 Filed 11-2-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-43]

ALLIED CHEMICAL INTERNATIONAL CORP. V.
FARRELL LINES, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Allied Chemical International Corp. against Farrell Lines, Inc. was served October 30, 1978. The complaint alleges that respondent overcharged complainant for ocean freight in violation of section 18 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 30, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-31127 Filed 11-2-78; 8:45 am]

[6730-01-M]

[Docket No. 78-42]

ALLIED CHEMICAL INTERNATIONAL CORP. V.
PACIFIC AMERICA CONTAINER EXPRESS
A.K.A. PACE LINE

Filing of Complaint

Notice is hereby given that a complaint filed by Allied Chemical International Corporation against Pacific America Container Express a.k.a. Pace Line was served October 30, 1978. The complaint alleges that respondent overcharged complainant for ocean freight in violation of section 18 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before

April 30, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-31128 Filed 11-2-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder
License No. 1948]

CATHAY FORWARDING CO., ORVIS NELSON,
D.B.A.

Order of Revocation

On October 23, 1978, Cathay Forwarding Co., Orvis Nelson, d.b.a., 127 East San Juan, San Clemente, Calif. 92672, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1948 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), §5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1948 issued to Cathay Forwarding Co., Orvis Nelson, d.b.a., be and is hereby revoked effective October 23, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Cathay Forwarding Co., Orvis Nelson, d.b.a.

ROBERT G. DREW,
Director, Bureau of
Certification and Licensing.

[FR Doc. 78-31131 Filed 11-2-78; 8:45 am]

[6730-01-M]

IDENTIFICATION OF CONTROLLED CARRIERS

Section 21 Order

On October 18, 1978, the President of the United States signed the Ocean Shipping Act of 1978 (hereinafter "Act") which becomes effective on November 17, 1978. This Act amends the Shipping Act, 1916 by providing for the regulation of rates, charges, classifications or rules by certain state-owned or controlled carriers in the foreign commerce of the United States. A

copy of this legislation is attached as Appendix A.¹

The Federal Maritime Commission is charged with the responsibility of administering this Act. To execute this mandate timely and accurately, the Commission must obtain certain information regarding the ownership and control of common carriers by water in the U.S. foreign commerce whose vessels are not registered in the United States.

Therefore, it is ordered, That pursuant to section 21 of the Shipping Act, 1916, (46 U.S.C. 820), each carrier listed in Appendix B to this order furnish to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before November 17, 1978, the following information submitted under oath and, if not in English, accompanied by a certified English translation.

1. What United States foreign commerce trades do you serve, offer to serve, or propose to serve? Explain if necessary.

2. List the name and flag of registry of each vessel you operate or propose to operate in the United States foreign trades which vessel carries cargo pursuant to a tariff required to be filed at the Federal Maritime Commission.

3(a). Are your operating assets directly or indirectly owned or controlled by a government under whose registry any of your vessels operate? If so, what government? For purposes of this question, ownership or control is deemed to exist if a government directly or indirectly owns or controls at least 50 percent of the financial interest in the assets.

3(b). Does a government, under whose registry any of your vessels operate, have the right to appoint or disapprove the appointment of a majority of the directors or the chief operating or executive officer of your company? If so, what government?

4. If your answers to questions Nos. 3(a) and 3(b) are no, respond to the following:

a. List every person, corporation, and entity having a 5 percent or more interest in your company and state the percent of ownership of each.

b. If any person, corporation or entity listed in response to question 4a holds such interest for the benefit of another party, i.e., acts as trustee, indicate the names of such person, corporation, or entity which holds such interest and every party to whose benefit the interest is held.

c. Are any names listed in answer to questions 4(a) or 4(b) associated with any government or governmental organization, agency, or institution? If so, who and in what manner?

5. If it is determined that you are a controlled carrier, do you believe you

are exempt from regulation under the Act? If so, state the specific provision under which you believe you are excluded and explain in detail, i.e.:

(6) The provisions of this subsection shall not apply to: (i) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; (ii) any controlled carrier of a state which, on the effective date of this subsection, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development; (iii) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement approved under section 15 of this Act, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection, and an agreement in which a controlled carrier exercises the right of independent action; (iv) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein, and the United States, or any of its districts, territories, or possessions; or (v) a trade served exclusively by controlled carriers.

This order is of a continuing nature. Any changes in ownership, control, or other conditions that affect your responses to this order shall be promptly reported to this Commission.

The information required by this order is essential so that the Commission can satisfy its statutory mandate. Failure to comply with the requirements of the order could result in the presumption by the Commission that "controlled carrier" status exists.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX B

Alexandria Shipping & Navigation Co., 557 El-Horra Avenue, Alexandria, Arab Republic of Egypt.
Alexandria Shipping & Navigation Co., c/o Tilston Roberts Corp., 17 Battery Place, New York, N.Y. 10004.
Arctic Line, Murmansk Steamship Co., 15, Komintern, Murmansk, U.S.S.R.
Arctic Line, c/o Morflot America Shipping, Inc., 67 Walnut Avenue, Clark, N.J. 07066.
Allianca Line, 19th Floor, Avenida Venezuela, 3, Rio De Janeiro, Brazil.
Argentine Lines, Five World Trade Center, Suite 6167, New York, N.Y. 10048.
Arya National Shipping Lines, c/o Norton, Lilly & Co., Inc., 90 West Street, New York, N.Y. 10006.
Atlantic Lines and Navigation, 33, Brouwersvliet, B-2000, Antwerp, Belgium.
Bahama Freight Services, Ltd., P.O. Box N8932, Nassau, Bahamas.
Baltic Shipping Co., 5 Mezhevoi Canal, Leningrad L-35 U.S.S.R.
Baltic Shipping Co., c/o Morflot America Shipping, Inc., 67 Walnut Avenue, Clark, N.J. 07066.

Bangladesh Shipping Corp., 2811, Toyenbee Circular Road, Motijheel Commercial Area, Dacca, Bangladesh.
Black Sea Shipping Co., 90 West Street, New York, N.Y. 10004.
Black Sea Shipping Co., UL, Lastochkina, 1, Odessa 26, U.S.S.R.
Black Star Line, c/o F. W. Hartman & Co., Inc., 17 Battery Place, New York, N.Y. 10004.
Bottacchi, A., Empresa, Navegacion CFIEI, Maipu 509 Piso 2, Buenos Aires, Argentina.
Cerra Hogullori Line, Posta Katusa 411, Taksim, Istanbul, Turkey.
Chilean Line, One World Trade Center, New York, N.Y. 10048.
Compania Chilena de Navegacion Interocceanica S.A., Ahumada II, Piso II, Santiago, Chile.
Companhia Nacional De Navegacao, S.A.R.L., Rua Do Comercio 85, Lisbon, Portugal.
Compagnie Nationale Algerienne De Navigation, Botte 280, Algiers, Algeria.
Compagnie Nationale Algerienne De Navigation, c/o TTT Ship Agencies, Inc., 22nd Floor, International Trade Mart, New Orleans, La. 70130.
Companhia De Navegacao Loide Brasileiro, Rua Do Rosario 1-17, Rio De Janeiro, Brazil.
Companhia De Navegacao Loide Brasileiro, 17 Battery Place, New York, N.Y. 10004.
Cunard Steamship Co., 1 Berkeley Street, London, W.I., England.
Dafra Lines, Sankt Anna Plads 30, Copenhagen, Denmark.
D.B. Turkish Cargo Lines, 93-95-97 Meclisi, Mebusan, Caddesi, Fındıklı, Istanbul, Turkey.
D.B. Turkish Cargo Lines, 1776 K Street NW., Suite 601, Washington, D.C. 20006.
D'Amico Line, Carso d'Italia 35/B, 00198 Roma, Italy.
Djakarta Lloyd, P.T., c/o Tilston Roberts Corp., 17 Battery Place, New York, N.Y. 10004.
Djakarta Lloyd, P.T., 28 Jalan Hadji Agus Salim, Jakarta, Indonesia.
Ecuadorian Line, 19 Rector Street, New York, N.Y. 10006.
Egyptian National Line, 2 Elnars Street, Alexandria, Egypt.
Far Eastern Shipping Co. (Fesco Pacific Lines), 15 TwentyFifth, October Street, Vladivostok, U.S.S.R.
Far Eastern Shipping Co., Moram Agencies, Inc., 67 Walnut Avenue, Clark, N.J. 07066.
Flota Mercante Grancolombiana, S.A., Grancolombiana New York, Inc., One World Trade Center, Suite 1667, New York, N.Y. 10048.
Flota Mercante Gran Centro, Americana SA, Flomerca Line, 1A Calle 7-21, Zona 9, Guatemala City, Guatemala.
Flota Mercante Gran Centro Flomerca Line, Guatemala City Americana S.A., Guatemala.
Prota Amazonica, S.A., AV Presidente Vargas 112, Belem, Para, Brazil.
Galapagos Line SA, Sucre 205Y PI, P.O. Box 6579, Guayaquil, Ecuador.
Galapagos Line SA, Norton, Lilly & Co., Inc., 1121 Walker Street, Suite 510, Houston, Tex. 77002.
Galleon Shipping Corp., Alco Building, Ground Floor, 391 Buendia Ave. Extension, Makati, Metro Manila, Philippine.
Great Eastern Lines, c/o Great Eastern Shipping Co., 60 Mahatma Gandhi Road, Bombay 1, India.

¹Appendix A is filed as part of the original document.

Gulf Ocean Lines, P.O. Box 1179, Reid House, Church Street, Hamilton, Bermuda.

Gulf West Africa Line, Mecantile & Marine, Inc., 767 Fifth Avenue, New York, N.Y. 10022.

Honduran Line, Apartado Postales 1022, Tegucigalpa, Honduras C.A.

Honduran Line, c/o United Brands Co., 33 Rector Street, New York, N.Y. 10006.

Imparica Lines, (Interiones Navieras Imparaca, C.A.), Avienda Urdaneta Pelotas Ibaras, Edificio Caoma, Oficina 310, Caracas, Venezuela.

Iran Express Lines, 130 Avenue Soraya, P.O. Box 1224, Tehran, Iran.

Koctug Line, Bankalar Caddesi Bozkurt General, Han Kat: 5 Post Office Box 884, Karakoy, Istanbul, Turkey.

Koctug Line, c/o Biehl & Co., Inc., 416 Common Street, New Orleans, La. 70130.

Linea Manure, C.A., Naviera Venezolana, c/o International Tariff Services, 815 15th Street NW., Washington, D.C.

Selmadura La Guaira, S.A., P.O. Box 98, La Guaira, Venezuela.

Lineas Maritimas De Guatemala, S.A., Apartado Postal 577, Guatemala City, Guatemala.

Lineas Maritimas De Guatemala, S.A., c/o Marine Chartering Co., Inc., 680 Beach Street, San Francisco, Calif. 94109.

Mamenic Line, P.O. Box 3523, Managua, Nicaragua.

Maritime Co. of the Philippines, 205 Juan Luna, Manila, Philippines.

Mexican Line, Transportation Maritima, Mexicana, S.A., Avenida De Los Insurgentes No. 432, Mexico 7 D.F.

Mogul Line, c/o Norton, Lilly & Co., 90 West Street, 23rd Floor, New York, N.Y. 10006.

Muhammadi Steamship Co., Ltd., c/o Crossocean Shipping Co., One World Trade Center, Suite 2045, New York, N.Y. 10048.

Nacional Line, Av. Rio Brando, 25-10 Andor, Rio De Janeiro, Brasil.

National Shipping Corp. of Pakistan, P.O. Box 5350, Karachi 2, Pakistan.

Naviera Amazonica Peruana S.A., Peurvian Amazon Line, Av. Inca Garcilaso De La Vega, 911, 10 Piso, Lima, Peru.

Peruvian Amazon Line, c/o Smith & Johnson (Shipping) Inc., 904 First National Bank of Commerce Building, New Orleans, La. 70112.

Naviera "Neptuno" S.A., Sr. Rufino Torrice 862-2nd Floor, Lima 1, Peru.

Navimex, S.A., Paseo De La Reforma 107, Piso 13, Mexico City 4, D.F., Mexico.

Neptune Orient Lines Ltd., 13 Trafalgar Street, Singapore 2.

Neptune Orient Lines Ltd., 300 Montgomery Street, San Francisco, Calif. 94104.

Netumar Line, c/o Netumar International Inc., 67 Broad Street, New York, N.Y. 10004.

P & O Strath Services, London, England.

Pakistan Line J/S, Kane, Thomas J., Esq., Cichanowicz & Callan, 80 Broad Street, New York, N.Y. 10004.

Pakistan Shipping Corp., People's Foundation Building, Beaumont Road, Karachi, Pakistan.

Pakistan Line, c/o Crossocean Shipping Co., One World Trade Center, New York, N.Y. 10048.

Pan-Arab Shipping Co., One World Trade Center, New York, N.Y. 10048.

Pan-Arab Shipping Co., 13, Salah Salem Street, Alexandria, Egypt.

Pan-Islamic Steamship Co., Ltd., Writers Chamber, Dunolly Road, P.O. Box 4855, Karachi, Pakistan.

Paxicon, (Pacific Mexico Container Line, Inc.), 781 Beach Street, San Francisco, Calif. 94109.

Pensinsular & Oriental Steamship Co., Beaufort House, St. Botolph Street, London EC3A 7DX, England.

Peruvian State Line, Compania Peruana De Vapores S.A., Gamarra 676, Apartado 208, Callao, Peru.

Peruvian State Line, c/o Tilston Roberts Corp., 17 Battery Place, New York, N.Y. 10004.

Philippines President Lines, c/o Balfour Guthrie & Co., Inc., One Maritime Plaza, San Francisco, Calif. 94111.

Pol-Arctic (J/S), Polish Ocean Lines, 22, Korzeniowskiego Str., Gdynia, Poland.

Polish Ocean Lines, c/o Gdynia America Line, One World Trade Center, Suite 3557, New York, N.Y. 10048.

Polish Ocean Lines, UL Slaska 49A, Gdynia, Poland.

R.C.D. Shipping Services, 61 Saint Joseph Street, Mobile, Ala. 36601.

Saudi National Lines, P.O. Box 66, Jeddah, Saudi Arabia.

Scindia Steamship Navigation Co., Ltd., Scindia House, Dougall Road, Ballard Estate, Bombay 1, India.

Shipping Corp. of India, Shipping House, 229/232 Madame Cama Road, Bombay 400-021, India.

Sidarma Line, Rialto Campo Della Fava, 5527, 30100 Venice, Italy.

South American Marine Corp., Ltd., BP Centre, Thibault Square, P.O. Box 27 & 2171, Capetown, South Africa.

South African Marine Corp., Ltd., One Bankers Trust Plaza, New York, N.Y. 10006.

Southeast & Caribbean Shipping Co., 750 NE 7th Avenue, Dania, Fla. 33004.

Star Shipping A/S, Bergen, Norway.

Transnave-Transportes Navieros Ecuatorianos, Capt. (R) Rafael Cevallos, Gen. Mang., Malecon 905 Y Junin, Guayaquil, Ecuador.

Transytur Line, 1015 North American Way, Miami, Fla. 33132.

United Arab Shipping Co. (S.A.G.), Safat 3336, Kuwait.

United Arab Shipping Co. (S.A.G.), 90 Washington Street, New York, N.Y. 10006.

Uruguayan Line, c/o Hansen & Tidemann, Inc., One World Trade Center-1623, New York, N.Y. 10048.

Venebuques, C.A., Post Office Box 6237, Caracas, Venezuela.

Venebuques, C.A., c/o International Tariff Services, 815 15th Street NW., Suite 538, Washington, D.C. 20005.

Venezuelan Line, Prins Hendrikkade 108, P.O. Box 209, Amsterdam, Holland.

Westwind Africa Line, c/o Southern Star Shipping Co., 29 Broadway, New York, N.Y. 10004.

[FR Doc. 78-31129 Filed 11-2-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 326]

VALLE FORWARDING CO., RENE P. VALLE AND ANNA M. VALLE, D.B.A.

Order of Revocation

On October 20, 1978, Valle Forwarding Co., Rene P. Valle and Anna M. Valle, d.b.a., 228 Poydras Street, Second Floor, New Orleans, La. 70130, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 326 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), §5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 326 issued to Valle Forwarding Co., Rene P. Valle and Anna M. Valle, d.b.a., be and is hereby revoked effective October 20, 1978 without prejudice to reapplication for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Valle Forwarding Co., Rene P. Valle and Anna M. Valle, d.b.a.

ROBERT G. DREW,
Director, Bureau of
Certification and Licensing.

[FR Doc. 78-31130 Filed 11-2-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 30, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 21, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director,

Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of a new reporting requirement under § 21.501(1)(10) of the FCC Rules and Regulations. The new reporting requirement will require certain mobile telephone common carriers who share frequencies in thirteen urban areas to report quarterly to the Commission so a determination can be made that the authorized number of mobile units reflect optimum channel usage. The FCC estimates respondents will number approximately 35 and that reporting burden will average approximately two hours per quarterly response.

NORMAN F. HEYL,
Regulatory Reports
Review Officer.

[FR Doc. 78-31181 Filed 11-2-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0179]

KAHLE TURKEY FARMS AND HATCHERY

Withdrawal of Applications for Animal Feeds Bearing or Containing New Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of applications for animal feeds bearing or containing a new animal drug (Form FD-1800) held by Kahle Turkey Farms and Hatchery, RFD No. 1, Fort Jennings, Ohio 45844. This action is being taken because the firm failed to respond to a notice of opportunity for hearing proposing to withdraw the applications.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Pugliese,
Bureau of Veterinary Medicine
(HFV-234),
Food and Drug Administration,
Department of Health, Education,
and Welfare,
5600 Fishers Lane,
Rockville, Md. 20857,
301-443-3460.

SUPPLEMENTARY INFORMATION:
In the FEDERAL REGISTER of July 28,

1978 (43 FR 32866), a notice of opportunity for hearing was published proposing to withdraw approval of the following applications for the manufacture of medicated feeds bearing or containing a new animal drug held by KAHLE Turkey Farms and Hatchery:

1. F 39-529V for animal feeds containing 0.0375 percent carbarsone (not U.S.P.); approved August 1, 1968.

2. F 43-568V for animal feeds containing 0.0375 percent carbarsone (not U.S.P.) and 0.01875 percent zoalene; approved March 9, 1970.

3. C 49-338V for animal feeds containing 0.0375 percent carbarsone (not U.S.P.) and 0.0011 percent bacitracin (as bacitracin methylene disalicylate); approved March 15, 1972.

The notice stated that the Director of the Bureau of Veterinary Medicine was proposing to issue an order under section 512(m)(4)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)(4)(B)(ii)), withdrawing approval of the listed applications and all amendments and supplements thereto because new information showed that the methods used in, and the controls used for, the manufacture and processing of animal feeds bearing or containing new animal drugs were inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drugs contained therein, and that they were not made adequate within a reasonable time after receipt of written notice specifying the deficiencies. The firm was provided until August 28, 1978 to file a written appearance requesting a hearing.

Kahle Turkey Farms and Hatchery has failed to respond to the notice within the 30-day period provided, as required by § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200). Such failure is construed as an election by the firm not to avail itself of the opportunity for hearing and is grounds for entering a final order without further notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(m), 82 Stat. 343-351 (21 U.S.C. 360b(m))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 51), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), applications for animal feeds bearing or containing new animal drugs F 39-529V, F 43-568V, and C 49-338V held by Kahle Turkey Farms and Hatchery are hereby withdrawn.

Dated: October 26, 1978.

TERENCE HARVEY,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-30932 Filed 11-2-78; 8:45 am]

[4110-03-M]

[Docket No. 77N-0239]

MODEL RETAIL FOOD STORE SANITATION ORDINANCE

Availability of Revised Proposed Ordinance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of the revised proposed Model Retail Food Store Sanitation Ordinance. The purpose of the ordinance is to provide the retail food industry with sanitary standards and State and local governments with a comprehensive model law with recommended enforcement procedures for the regulation of retail food stores.

DATE: Comments by January 31, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1511.

SUPPLEMENTARY INFORMATION: In 1973, the Food and Drug Administration (FDA) began development of a model retail food store sanitation ordinance in response to numerous requests, primarily from State and local regulatory agencies. The retail food store industry and food equipment manufacturers simultaneously expressed a need for a uniform set of requirements to replace the variety of State and local sanitation standards in effect in the United States. There has never been a uniform set of national sanitation guidelines or regulations developed specifically for retail food stores.

A proposed model retail food store ordinance was approved October 18, 1977, and notice of its availability for comment was published in the FEDERAL REGISTER of October 25, 1977 (42 FR 56367). The comment period was extended from 90 days to 120 days by notice in the FEDERAL REGISTER of January 31, 1978 (43 FR 4117). During the comment period, 85 letters were received containing about 1,000 comments. The proposal has been revised significantly based on these comments.

Considering the number and significance of changes made to the original proposal, the Commissioner of Food

and Drugs concluded that there is a need to obtain comments on the revised proposal. Copies of the revision are being distributed to interested government and industry groups and to all who commented on the original proposal to provide an opportunity for their comments.

Other persons interested in obtaining copies of the revised proposal should write to the Bureau of Foods (HFF-220), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204. A copy of the revised proposal is also on display in the office of the FDA Hearing Clerk.

Written comments on the revised proposed ordinance should be sent on or before January 31, 1979 to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: October 19, 1978.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner
for Regulatory Affairs.*

[FR Doc. 78-30820 Filed 11-2-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF 1,5-NAPHTHALENE-DIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

1,5-Naphthalenediamine (CAS 2243-62-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 1,5-naphthalenediamine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. 1,5-Naphthalenediamine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, 1,5-naphthalenediamine was carcinogenic in female Fischer 344 rats, causing clitoral and uterine neoplasms. 1,5-Naphthalenediamine was also carcinogenic for B6C3F1 mice, producing thyroid neoplasms in males and neoplasms of the thyroid, liver, and lung in females. Insufficient evidence was provided for the carcinogenicity of the compound in male Fischer 344 rats.

Single copies of the report are available from the Office of Cancer Com-

munications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 24, 1978.

DONALD S. FREDRICKSON,
*Director,
National Institutes of Health.*

[FR Doc. 78-30647 Filed 11-2-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 2-AMINOANTHRAQUINONE FOR POSSIBLE CARCINOGENICITY

Availability

2-Aminoanthraquinone (CAS 117-79-3) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 2-aminoanthraquinone for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of chemical include use as an intermediate in the manufacture of dyes. 2-Aminoanthraquinone was administered in the feed, at either of two concentrations (except for female rats), to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 2-aminoanthraquinone was carcinogenic in male Fischer 344 rats, causing a combination of hepatocellular carcinomas and neoplastic nodules of the liver. The compound was also carcinogenic in B6C3F1 mice, causing hepatocellular carcinomas in both sexes and malignant hematopoietic lymphomas in females.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 24, 1978.

DONALD S. FREDRICKSON,
*Director,
National Institutes of Health.*

[FR Doc. 78-30648 Filed 11-2-78; 8:45 am]

[4110-12-M]

Office of the Secretary

[Contract No. HEW-100-78-0059]

GARY INCOME MAINTENANCE EXPERIMENT

Contract Award

Pursuant to section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-78-0059 to Mathematica Policy Research, Inc., P.O. Box 2393, Princeton, N.J. 08540 for a research project entitled "Gary Income Maintenance Experiment." The purpose of this project is to complete the data development and research analysis of the Gary Income Maintenance Experiment that were previously initiated. The estimated cost of this contract is \$490,000 and the intended completion date is June 21, 1979.

Dated: October 30, 1978.

HENRY AARON,
*Assistant Secretary for
Planning and Evaluation.*

[FR Doc. 78-31126 Filed 11-2-78; 8:45 am]

[4110-12-M]

[Contract No. HEW-100-78-0118]

MONTHLY RETROSPECTIVE REPORTING STUDIES

Contract Award

Pursuant to section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 U.S.C. 2946, this agency announces the award of Contract No. HEW-100-78-0118 to Abt Associates, Inc., 55 Wheeler Street, Cambridge, Mass. 02138 for a research project entitled "Monthly Retrospective Reporting Studies." The purpose of this project is to collect and analyze data on a series of experiments which compare two kinds of AFDC administrative approaches, the approach currently in use in a set of test sites, and a new approach, which involves monthly recipient reporting, retrospective accounting, and automated data processing. The estimated cost of this project is \$1,553,011 and the intended completion date is March 18, 1981.

Dated: October 30, 1978.

HENRY AARON,
*Assistant Secretary for
Planning and Evaluation.*

[FR Doc. 78-31125 Filed 11-2-78; 8:45 am]

[4110-12-M]

[Contract No. HEW-100-78-0099]

PENSION EQUITY MEASUREMENT

Contract Award

Pursuant to section 606 of the Community Services Act of 1974 (Pub. L. 93-644), 42 U.S.C. 2946, this agency announces the award of Contract No. HEW-100-78-0099 to Survey Research Laboratory, University of Illinois, Urbana, Ill. 61801, for project entitled, "Pension Equity Measurement". The purpose of this project is to design a typology of pension plan characteristics and develop questions to be used on a sample of pension plan members. The contractor will draw the sample, collect the data and analyze the accuracy and problems in reporting pension equity in a personal interview. The estimated cost of this contract is \$149,604 and the intended completion date is March 30, 1979.

Dated: October 30, 1978.

HENRY AARON,
Assistant Secretary for
Planning and Evaluation.

[FR Doc. 78-31132 Filed 11-2-78; 8:45 am]

[4110-12-M]

[Contract No. HEW-100-78-0073]

PROJECT SHARE

Contract Award

Pursuant to section 606 of the Community Services Act of 1974 (Pub. L. 93-644) 42 U.S.C. 2946, this agency announces the award of Contract No. HEW-100-78-0073 to Aspen Systems Corp., 20010 Century Boulevard, Germantown, Md. 20767, for a research project entitled, "Project Share." The purpose of this project is to disseminate relevant information and significant findings of human services policy research projects funded under section 232 of the Community Services Act for 1974. This contract is part of a larger contract to disseminate information and findings of Federal, State and local evaluation and research studies in the area of human services. The estimated cost of the portion of the project to disseminate information from human services policy research projects funded under section 232 of the Community Services Act of 1974 is \$100,000. The contract award includes an option to extend the contract for two additional years, and the intended completion date is September 30, 1981.

Dated: October 30, 1978.

HENRY AARON,
Assistant Secretary for
Planning and Evaluation.

[FR Doc. 78-31124 Filed 11-2-78; 8:45 am]

[4110-85-M]

Public Health Service

HEALTH MAINTENANCE ORGANIZATIONS

Delegations of Authority

Notice is hereby given that the following delegations and ratification have been made regarding the Health Maintenance Organizations program authorities under Title XIII of the Public Health Service Act, as amended; section 1876(b)(2)(A) of the Social Security Act, as amended; and sections 1903(m)(1)(B) and 1903(m)(2)(C) of the Social Security Act, as added by Pub. L. 94-460.

(1) Delegation, effective May 1, 1978, by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health:

a. With authority to redelegate, of authority to perform all of the functions vested in the Secretary under Title XIII of the Public Health Service Act (42 U.S.C. 300e et seq.), as amended, concerning health maintenance organizations, excluding the authorities to promulgate regulations and submit reports to Congress;

b. With authority to redelegate, of authority to perform the functions vested in the Secretary under section 1876(b)(2)(A) of the Social Security Act (42 U.S.C. 1395mm), as amended, to make determinations as to whether an organization is a health maintenance organization; and

c. Of authority to ratify all actions from October 1, 1976, through May 1, 1978, taken on behalf of the Secretary of Health, Education, and Welfare under Title XIII of the Public Health Service Act, as amended.

(2) Delegation, effective October 23, 1978, by the Acting Assistant Secretary for Health to the Director, Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, with authority to redelegate, of the authorities delegated to the Assistant Secretary for Health under:

a. Title XIII of the Public Health Service Act (42 U.S.C. 300e et seq.), as amended;

b. Section 1876(b)(2)(A) of the Social Security Act (42 U.S.C. 1395mm), as amended, providing for making determinations as to whether an organization is a health maintenance organization; and

c. Section 1903(m)(1)(B) and section 1903(m)(2)(C) of the Social Security Act (42 U.S.C. 1396b), as added by Pub. L. 94-460. (A notice of the January 19, 1977 delegation by the Acting Secretary of Health, Education, and Welfare to the Assistant Secretary for Health of authorities under sections 1903(m)(1)(B) and 1903(m)(2)(C) of the Social Security Act was published in 42 FR 30435.)

All prior delegations to PHS officials of authority under Title XIII of the Public Health Service Act have been superseded.

(3) Delegation, effective October 23, 1978, by the Director, Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, to the Regional Health Administrators, with authority to redelegate, of authority under:

a. Section 1303 of the Public Health Service Act (42 U.S.C. 300e-2), to award approved grants for feasibility surveys; and

b. Section 1304 of the Public Health Service Act (42 U.S.C. 300e-3), to award approved grants for planning and for initial development costs.

(4) Ratification, effective October 23, 1978, by the Acting Assistant Secretary for Health of all actions from October 1, 1976 through May 1, 1978, taken on behalf of the Secretary of Health, Education, and Welfare under Title XIII of the Public Health Service Act, as amended.

Dated: October 23, 1978.

CHARLES MILLER,
Acting Assistant Secretary
for Health.

[FR Doc. 78-31064 Filed 11-2-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

JOINT FEDERAL-STATE BEAUFORT SEA OCS SALE

Hearing on Waiver of Ban on Joint Bidding

AGENCY: Bureau of Land Management.

ACTION: Notice of public hearing.

SUMMARY: The Bureau of Land Management gives notice of public hearings to be held on whether an exemption to the ban on joint bidding for the Outer Continental Shelf oil and gas lease sale scheduled for the Beaufort Sea will be granted. The sale is proposed to be held jointly by the Federal Government and the State of Alaska in December 1979 and to cover areas in the Beaufort Sea of Alaska.

SUPPLEMENTARY INFORMATION: On July 26, 1978, Chevron, U.S.A. wrote to the Secretary of the Interior requesting an exemption to the ban on joint bidding by major oil companies in compliance with applicable law. On September 18, 1978, the President signed into law the OCS Land Act Amendments of 1978 (OCSLA Amendments). Section 205 of the OCSLA Amendments changed the law regarding when the Secretary of the Interior could grant a waiver of the joint bidding ban. Section 105(c) of the Energy

Policy and Conservation Act (42 U.S.C. 6213(c)), as changed by the OCSLA Amendments, allows the Secretary to exempt bidding for such leases only when he finds that: (1) such lands have extremely high cost exploration or development problems and (2) exploration and development will not occur on such lands unless such exemption is granted.

The request of Chevron, U.S.A. and supplementary information, if any, are available for inspection at the Branch of Marine Mineral Leasing, BLM, 18th & C Streets NW., Washington, D.C. 20240, phone number 202-343-8537 between the hours of 7:45 a.m. and 4:15 p.m. and the Alaska OCS Office of the BLM, 800 A Street, P.O. Box 1159, Anchorage, Alaska 99510, phone number 907-276-2955 during the same hours.

The request for waiver from Chevron encompasses all tracts proposed for the Beaufort Sea OCS Lease Sale. The request from Chevron for a waiver is to allow any two companies which are restricted joint bidders (see 43 CFR 3302.3) to bid jointly with each other at this particular sale. After the hearing, the Secretary's decision on this request may involve any number of possibilities, including an exemption broader than the specific request. These options encompass are but not limited to:

1. Granting the waiver for all companies in any combination of bidding.
2. Granting the waiver but limiting the number of companies that may combine or identifying which companies may combine.
3. Denying the waiver.
4. Requesting additional information.

Comments are requested to deal specifically with the two findings the Secretary must make. Since companies other than Chevron, including companies which are not restricted joint bidders, may be affected by the Secretary's decision, they are also invited, along with the general public to submit appropriate information and data. This material may be submitted in advance.

Two hearings will be held. On December 5, 1978, a hearing will be held in Anchorage, Alaska, at the Captain Cook Hotel (Afterdeck Room), 5th & K Streets, beginning at 9 a.m. Requests to present comments at the hearing can be filed with OCS Manager, Bureau of Land Management, 800 A Street, Anchorage, Alaska 99510, at any time prior to that date. All scheduled speakers and anyone else will be allowed to speak at the hearing. The hearing will begin at 9 a.m. and continue until 4 p.m., or until all speakers have been heard. The BLM reserves the option of extending the hearing an additional day for sufficient and compelling reasons.

On December 8, 1978, a hearing will be held at Interior Department Auditorium, 18th & C Streets NW., Washington, D.C., beginning at 9 a.m. Requests to present comments at the hearing can be filed with the Assistant Director, Minerals Management (700), BLM, Room 5640, 18th & C Streets NW., Washington, D.C. 20240, at any time prior to that date. All scheduled speakers and anyone else will be allowed to speak at the hearing. The hearing will begin at 9 a.m., and continue until 4 p.m., or until all speakers have been heard. The BLM reserves the option of extending the hearing an additional day for sufficient and compelling reasons.

Time limitations make it necessary to restrict the length of oral presentations to twenty (20) minutes. At the option of the hearing officer, this time may be changed.

The hearing panel at both sites will consist members of the Department of the Interior and the State of Alaska. The hearings will be formal and a complete record will be made of the proceedings. The hearings will be chaired by an Administrative Law Judge. Based on the record, a decision will be made on whether the exemption will be granted.

Any written comments submitted to the Assistant Director (700), BLM, within 10 days after the hearing will be considered.

FOR FURTHER INFORMATION CONTACT:

Chris Oynes or Anne Bennett,
Branch of Marine Mineral Leasing,
Bureau of Land Management, Room
3547, 18th & C Streets NW., Wash-
ington, D.C. 202-343-2718 or 343-
8537.

ARNOLD E. PETTY,
Acting Associate Director.
LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

OCTOBER 30, 1978.

[FR Doc. 78-31067 Filed 11-2-78; 8:45 am]

[4310-84-M]

[Wyoming 65368]

WYOMING

Application

OCTOBER 25, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 8-inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 18 N., R. 112 W.,
Sec. 20, W $\frac{1}{2}$ NW $\frac{1}{4}$.

The proposed pipeline designated as Trunk "B" extension will transport natural gas from a point in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of sec. 19 to a point of connection with Northwest Pipeline Corp.'s Moxa Arch Gathering System in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of sec. 20, T. 18 N., R. 112 W., in Uinta County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 78-31067 Filed 11-2-78; 8:45 am]

[4310-70-M]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m. (P.s.t.) on November 18, 1978, at Tamalpais High School Student Center, Miller Avenue and Camino Alto Street, Mill Valley, Calif.

The Advisory Commission was established by Pub. L. 92-589, to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park system in Marin and San Francisco Counties.

Members of the Commission are as follows: Mr. Frank Boerger, Chairman; Ms. Amy Meyer, Secretary; Mr. Ernest Ayala, Mr. Richard Bartke, Mr. Fred Blumberg, Ms. Daphne Greene, Mr. Peter Haas, Sr., Mr. John Jacobs, Ms. Gimmy Park Li, Mr. Joseph Mendoza, Mr. John Mitchell, Mr. Merritt Robinson, Mr. Jack Spring, Dr. Edgar Wayburn, and Mr. Joseph Williams.

The major agenda items will be discussion of the Golden Gate National Recreation Area pet policy, discussion on an artist-in-residence prospectus for the Marin Headlands area, and a presentation by the General Superin-

tendent on those portions of the Omnibus Bill (S791), that pertain to GGNRA and Point Reyes National Seashore.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, Calif. 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by December 18, 1978, in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, Calif.

Dated: October 26, 1978.

BRUCE M. KILGORE,
Acting Regional Director,
Western Region.

[FR Doc. 78-31061 Filed 11-2-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

CERTAIN APPARATUS FOR THE CONTINUOUS PRODUCTION OF COPPER ROD

Commission Determination, Order, and
Memorandum Opinion; Procedural History

On September 26, 1978, respondents American Telephone & Telegraph, Western Electric Co., and Nassau Recycle Corp. (collectively Bell respondents), filed a motion (motion docket No. 52-41), pursuant to §§ 210.24 and 210.51 of the Commission's Rules of Practice and Procedure (hereinafter CRPP; 19 CFR §§ 210.24 and 210.51), to terminate this investigation as to issues of infringement of three of the patents involved in this investigation, namely, U.S. Letters Patent 3,317,994, 3,672,430, and 3,716,423, and to terminate the investigation as to the Bell respondents and the Krupp International and Krupp GmbH (collectively Krupp respondents), with respect to the continuous copper casting and rolling system at Gaston, S.C., and any future parts to be used in the maintenance and operation thereof as concerns the three patents cited above. This motion is based on the assertion that Bell respondents possess nonexclusive royalty-free licenses under the cited patents pursuant to a development contract between Western Electric Co. and complainant Southwire Co., dated August 22, 1962, and a license agreement between Western

Electric Co. and complainant effective September 1, 1963. Respondents assert that respondent Nassau Recycle Corp.'s continuous copper and casting rolling system installed at Gaston, S.C., is a licensed system pursuant to such development contract and license agreement, and accordingly that the manufacture, importation, sale, and use of such system and spare parts for the maintenance and operation thereof, and the production and sale of products connected therewith, are not unfair acts of competition pursuant to 19 U.S.C. 1337 because of infringement of the cited patents. The Bell and Krupp respondents therefore move that the investigation be dismissed with respect to the system at Gaston, S.C., and any future parts to be used in the maintenance and operation of the system.

Under CRPP 210.53, a motion filed pursuant to CRPP 210.51, must be certified to the Commission by the presiding officer with her recommended determination within 30 days from the date of filing a motion under CRPP 210.51, unless the motion is denied. Thus, in this case, the recommended determination should be certified to the Commission by October 26, 1978. Under CRPP 210.53, however, the Commission may, by order, allow a longer time.

The presiding officer has requested, by a recommendation of October 23, 1978, that the time for filing her recommended determination on this motion be extended 30 days, until November 27, 1978. This recommendation is justified by the presiding officer because of the complex issues involved, because of the substantial impact action the motion will have on this investigation, because all pleadings relating to the motion were not received until October 17, 1978, and because of administrative difficulties in meeting the 30-day time limit, thus requiring additional time to act on the motion. The presiding officer states also that she will assume that her recommended determination must be filed no later than November 27, 1978, if the motion is granted; that is, she will proceed as if the recommendation for the 30-day extension had been granted.

OPINION

The presiding officer, in her recommendation of October 23, 1978, stated that, if it is recommended that respondents' motion be granted, CRPP 210.53 requires that such recommendation be certified to the Commission by October 26, 1978, unless the Commission allows greater time. Her recommendation also states that, if the motion is denied, there is no deadline, since a denial of the motion does not require certification to the Commission (CRPP 210.51(c) and 210.53(a)).

Inasmuch as the Commission has not received the presiding officer's recommended determination on the motion, and since the presiding officer has given good and sufficient reason why her recommended determination cannot be made within the 30-day period required by CRPP 210.53 if the motion to terminate were granted, the Commission believes that it would be proper to extend the period for certifying the recommended determination for an additional 30 days, until November 27, 1978. At that time, the Commission will be better able to determine, in light of the presiding officer's recommended determination on the motion then available, whether to grant or not grant the motion. If the presiding officer refuses, however, to grant the motion, it will not be certified to the Commission.

DETERMINATION AND ORDER

Having considered (1) the respondents' motion to terminate (motion docket No. 52-41), and (2) the presiding officer's recommendation of October 23, 1978, to grant an additional 30 days within which to file her recommended determination with respect to the motion, the Commission determines that the presiding officer's recommendation is properly filed and justified, and orders, pursuant to CRPP 210.53(a), that the 30-day period within which the presiding officer may file her recommended determination be extended for an additional 30 days. Therefore, the recommended determination of the presiding officer is now due to be certified to the Commission no later than November 27, 1978.

By order of the Commission.

Issued: October 31, 1978.

KENNETH R. MASON,
Secretary, U.S. International
Trade Commission.

[FR Doc. 78-31194 Filed 11-2-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. BRISTOL-MYERS CO. ET AL.

Proposed Consent Judgment and Competitive
Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a Proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the U.S. District Court for the District of Columbia in Civil No. 822-70 (M.D.L. Docket No. 50), *United States of America v. Bristol-Myers Co. et al.* (Mar. 19, 1970). The proposed settlement would

terminate, against two of the three defendants, the Department of Justice's civil antitrust suit involving the broad spectrum antibiotic, ampicillin, and other semisynthetic penicillins. The British defendant, Beecham Group, Ltd., and its wholly owned American subsidiary, Beecham, Inc., consent to the proposed judgment. The third defendant, Bristol-Myers Co. is not a party to the proposed settlement and will therefore remain an active defendant in the lawsuit.

The complaint alleged that the defendants violated the Sherman Act by conspiring to restrain and monopolize trade and commerce in semisynthetic penicillins, restrictively licensing patents relating to ampicillin and other semisynthetic penicillins, and fraudulently procuring and enforcing a patent on ampicillin. That patent, as well as another one claiming a different form of ampicillin, were both alleged in the complaint to be invalid on statutory grounds.

The complaint also sought damages, as a result of the alleged conspiracy and foregoing violations, for overcharges on government purchases of ampicillin. The Beecham defendants will pay to the United States \$1 million in settlement of the Government's claims against Beecham.

The injunctive provisions of the proposed judgment would prevent the Beecham defendants from restraining sales of any prescription drug in specified ways. The Beecham defendants would be prohibited for 10 years from making or maintaining any agreement that prevents or restrains any other party from selling any prescription drug to any person, in any manner or form, or under any trademark, trade name, label, or generic or official name. These injunctive provisions would also extend to any agreement that contains royalty of other fee provisions having the purpose or effect of similarly restraining another party. Excluded from these prohibitions would be: (1) Exclusive license of distributorship agreements that do not otherwise so restrain another party; and (2) agreements settling any trademark infringement dispute.

The proposed judgment would also require the Beecham defendants: (1) To sell in bulk form under some circumstances certain semisynthetic penicillins and 6-APA, a chemical used in the production of these drugs, until the patents claiming them expire; (2) to grant covenants not to sue, on any patent, for infringement or royalties in connection with sales of ampicillin, and to furnish and license related know-how for use with ampicillin, such covenants and licenses to be made at no profit to them; (3) to grant, at no profit to them, covenants not to sue for infringement of certain

semisynthetic penicillin patents subject to agreements between Beecham and defendant Bristol-Myers, so long as this action continues against Bristol-Myers; (4) to license certain other semisynthetic penicillin patents and related know-how at a reasonable royalty rate; and (5) to assign certain semisynthetic penicillin trademarks to the persons by whom the trademarks were exclusively used in the United States (or authorize such persons to use such trademarks).

The competitive impact statement described the key provisions of the proposed judgment and its anticipated effects on competition, and evaluates alternative relief proposals actually considered by the United States.

Public comment is invited within the statutory 60-day time period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Robert V. Allen, Chief, Intellectual Property Section, Antitrust Division, SAFE 704, U.S. Department of Justice, Washington, D.C. 20530.

Dated: October 26, 1978.

CHARLES F. B. McALEER
Special Assistant for
Judgment Negotiations.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

*United States of America, Plaintiff, v.
Bristol-Myers Company, Beecham Group
Limited, and Beecham Inc., Defendants.*
M.D.L. Docket No. 50
Civ. No. 822-70

STIPULATION

Filed: October 25, 1978
Entered:

It is stipulated by and between the plaintiff, United States of America, and the defendants, Beecham Group Limited and Beecham Inc., by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to either party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatsoever, and the making of this stipulation shall be without prejudice to plaintiff and Beecham Group Limited and Beecham Inc. in this and any other proceeding.

Dated: October 20, 1978.

For the plaintiff: John H. Shenefield,
Assistant Attorney General, William E.
Swope, Robert V. Allen, Thomas H. Liddle
III, Robert S. Schwartz, Lee J. Keller, At-

torneys, Antitrust Division, U.S. Department of Justice.

For the defendants: Shearman & Sterling, By: Arnold Bauman, R. Bruce MacWhorter, Robert F. Dobbin, Attorneys for Defendants, Beecham Group Ltd. and Beecham, Inc.

Stipulation approved for filing.

Dated: October 25, 1978.

CHARLES R. RICHEY,
U.S. District Judge.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

*United States of America, Plaintiff, v.
Bristol-Myers Company, Beecham Group
Limited, and Beecham Inc., Defendants.*
Civil No. 822-70
Filed: October 25, 1978

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on March 19, 1970, and defendant Beecham Group Limited having been served pursuant to 35 U.S.C. section 293 and having consented to the personal jurisdiction of the Court for purposes of this action only, the defendants Beecham Group Limited and Beecham Inc. having appeared by their attorneys and having each filed and answer to such complaint, and the plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment:

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, without this Final Judgment constituting any evidence against or admission by any party or estoppel in any other action with respect to any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of all parties hereto. The complaint states a claim for relief against Beecham Group Ltd. and Beecham Inc. under sections 1 and 2 of the Sherman Act, as amended.

II

As used in this Final Judgment:

(A) "Beecham" means defendant Beecham Group Ltd., with its principal office at Beecham House, Great West Road, Brentford, Middlesex, England; and defendant Beecham Inc., with its principal office at 65 Industrial South, Clifton, N.J. 07012.

(B) "Bristol" means defendant Bristol-Myers Co., with its principal office at 345 Park Avenue, New York, N.Y. 10022.

(C) "Ethical pharmaceutical" means any product containing or consisting of any drug (as that term is defined in 21 U.S.C. 321(g)(1)) which, on the effective date of this Final Judgment or when marketed commercially, may be dispensed or sold at retail to an individual consumer only if prescribed by a doctor.

(D) "Dosage form" means any form in which ethical pharmaceuticals are packaged or formulated for use by or administration to their ultimate individual human or animal consumer, and includes, among other things, pills, tablets, capsules, elixirs, syrups, vials, and ampules.

(E) "Bulk form" means the form in which ethical pharmaceuticals are manufactured, prior to their formulation or packaging into dosage form.

(F) "Sterile bulk form" means the bulk form which is suitable for the manufacture of parenteral products.

(G) "Ampicillin" means D-(-)-alpha-aminobenzylpenicillin in any form (including the anhydrous forms and trihydrate form), and its salts and esters.

(H) "Semisynthetic penicillin" means any penicillin that is produced from 6-aminopenicillanic acid ("6-APA") by acylating the 6-amino group or that is produced other than entirely by fermentation processes (with or without precursors), and includes, among other things, ampicillin, amoxycillin, azidocillin, carbenicillin, cloxacillin, dicloxacillin, flucloxacillin, hetacillin, methicillin, nafcillin, oxacillin, phenoxymethylpenicillin, phenethylpenicillin, propicillin and talampicillin, and salts thereof.

(I) "Technical data" means know-how, trade secrets, technology, production manuals, drawings, and other information that relates to the manufacture, use, processing, or securing of FDA approval for the marketing of any product, including (but not limited to) the best mode, method, procedure, and technique thereof known to or used by a defendant.

(J) "Patent" means U.S. patent, and includes any reissue and any correction of such patent.

(K) "Date of this Final Judgment" means the date of entry of this Final Judgment.

(L) "Semisynthetic penicillin patent" means:

- (1) any patent or application for a patent
 - (a) that claims any one or more of the following: (i) a semisynthetic penicillin, (ii) a process or method of making a semisynthetic penicillin (or pharmaceutical composition containing it in combination with any other products), (iii) an intermediate (such as 6-APA) or any starting material from which a semisynthetic penicillin is made, (iv) a process or method for making an intermediate (or a starting material) from which a semisynthetic penicillin is made, (v) a method of use for (or treatment employing) a semisynthetic penicillin, or (vi) a pharmaceutical composition containing a semisynthetic penicillin in combination with any other product; and
 - (b) that prior to the date of this Final Judgment Beecham assigned or licensed to Bristol, or Bristol assigned or licensed to Beecham, including (but not limited to) each patent and application for a patent that a defendant assigned or licensed to another defendant pursuant to their agreements of April 2, 1959, August 1, 1960, or January 1, 1967; and
 - (2) any other patent

(a) that as of September 26, 1978, was owned by or assigned or licensed to Beecham; and

(b) that claims any one or more of the things enumerated in paragraph (L)(1)(a)(i)-(vi) of this section II.

The term "semisynthetic penicillin patent" does not include:

- (1) U.S. Patents Nos. 3,192,198, 3,674,776, and Re. 28,744 (all relating to amoxicillin), unless it is agreed by Beecham and Bristol, or finally established in any suit or other proceeding (whether or not Bristol is a party thereto), that such patents are licensed by Beecham to Bristol under their agreement of April 2, 1959, in which case

such patents shall be treated in all respects under this Final Judgment as if they were included in the definition of a "semisynthetic penicillin patent" under this paragraph II(L); or

(2) U.S. Patents Nos. 3,282,926 and 3,881,013 (both relating to ticarcillin) and U.S. Patent No. 3,853,849 (relating to carfecillin), unless one or more of such patents is assigned or licensed by Beecham to Bristol at any time during a period of ten (10) years after the date of this Final Judgment; in which case each patent so licensed or assigned shall be treated in all respects under this Final Judgment as if it were included in the definition of "semisynthetic penicillin patent" under this paragraph II(L).

(M) "Semisynthetic penicillin technical data" means technical data in the possession, custody, or control of Beecham that it has the right to license at the time of any request therefor made pursuant to this Final Judgment, and that is reasonably necessary or commercially requisite to make, use, process, or secure FDA approval to market any semisynthetic penicillin (or any product containing a semisynthetic penicillin in combination with any other product). The term "semisynthetic penicillin technical data" includes (but is not limited to):

- (1) all such technical data that was submitted to the FDA (including, but not limited to, that which relates to securing FDA approval to market any semisynthetic penicillin) by or on behalf of Beecham at or before the time of any request for such data; and
- (2) all such technical data that relates to using or processing any semisynthetic penicillin, and was known to or used by Beecham at or before the time of any request for such data.

Such term does not include any technical data that relates to—

- (1) the manufacture of semisynthetic penicillins (and that was first known to or discovered or developed by Beecham after the date of this Final Judgment);
- (2) the fermentation of penicillin;
- (3) the manufacture of 6-APA; or
- (4) the manufacture of any other starting material or starting chemical that (at the time of the request) is reasonably available commercially from a source other than Beecham or Bristol.

(N) "Persons" means any individual, corporation, association, partnership, or other business or legal entity. Business or legal entities under common ownership or control, or related as parent or subsidiary, shall be treated as a single person.

(O) "U.S. sale" means any sale or resale made in the United States.

(P) "Designation" means any U.S. trademark, trade name, or label, except a trademark, trade name, or label owned by Beecham. The term includes generic labels and established or official names (as those terms are used in 21 U.S.C. sections 352(e)(2) and 358).

III

(A) The provisions of this Final Judgment shall apply to Beecham; to each of its subsidiaries, successors, and assignees; to their directors, officers, agents, and employees; and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

(B) This Final Judgment shall not apply to activities that occur outside the United

States and do not affect the interstate or foreign commerce of the United States. Nothing in this Final Judgment shall constitute or require a grant of any right or rights by Beecham in any foreign jurisdiction or under any foreign patent or trademark or prohibit the enforcement or implementation of any such foreign right or rights.

IV

(A) Beecham is enjoined and restrained from entering into, adhering to, maintaining, or claiming any rights under any agreement or understanding, whether or not in the form of a license, that:

(1) restricts, limits, prevents, or prohibits any other party to such agreement or understanding from making any U.S. sale of an ethical pharmaceutical in any manner or form, under any designation, or to any person of the party's free choice;

(2) authorizes any other party to such agreement or understanding to make any U.S. sale of an ethical pharmaceutical in some particular manner or form, under some particular designation, or to some particular person, unless it also permits such party to make such sale in any other manner or form, under any and all other designations, or to any other person of the party's free choice; or

(3) contains royalty or other fee provisions having the purpose or effect of restricting or limiting any other party to such agreement or understanding from making any U.S. sale of an ethical pharmaceutical in any matter or form, under any designation, or to any person of the party's free choice.

(B)(1) The injunctions contained in section IV(A) shall not be construed to prevent Beecham from complying with 21 U.S.C., Ch. 13, and regulations issued pursuant thereto relating to "controlled substances."

(2) Nothing in section IV(A) shall prevent Beecham from entering into or maintaining any agreement in settlement of a bona fide trademark infringement (or other similar) dispute relating to confusion as to the source or origin of an ethical pharmaceutical product, pursuant to which agreement any party thereto (a) agrees not to use, or agrees to limit the use of, any U.S. trademark involved in the dispute, or (b) agrees to refrain from the practices allegedly giving rise to such confusion. The United States is free to challenge and Beecham is free to defend the lawfulness of any such agreement under the antitrust laws.

(3) Nothing in section IV(A) shall prevent Beecham from granting or receiving an exclusive distributorship or an exclusive license under any patent, trademark, trade name, or technical data, unless such distributorship or license has the purpose or effect of otherwise restricting or limiting the other party thereto in any way prohibited by section IV(A) of this Final Judgment.

(C) Beecham shall have 120 days from the date of this Final Judgment within which to bring all existing agreements, understandings, and licenses into compliance with this section IV. Beecham shall within 30 days thereafter file with this Court an affidavit of such compliance.

V

(A) Beecham is ordered to sell in bulk form to each person, other than Bristol or a person who is a semisynthetic penicillin bulk customer or licensee of Beecham or Bristol as of the date of this final Judgment.

ment, making a written request therefor for delivery in (or to) the United States, on nondiscriminatory terms and prices, in quantities sufficient to meet such person's bona fide stated requirements for his sale in the United States:

(1) Ampicillin, if Beecham is selling it in the United States at the time of such request and if Beecham has, at the time of such request, the right to sell it in bulk form in the United States; and

(2) Any other semisynthetic penicillin—

(a) That, at the time of such request, Beecham is selling in the United States;

(b) That is claimed in any unexpired semisynthetic penicillin patent; and

(c) That, at the time of such request, Beecham has the right to sell in bulk form in the United States.

(B) Beecham is required to make such sales of semisynthetic penicillins pursuant to this section V:

(1) Only in the chemical form in which Beecham is selling such semisynthetic penicillin in the United States at the time of the request; and

(2) In bulk form, and in sterile bulk form, only to the extent that the amount of such required sales of such form of such semisynthetic penicillin in any year does not exceed 15 percent of the amount (measured by weight) of such semisynthetic penicillin (for nonparenteral or parenteral use, respectively) that Beecham sold in the United States to any person other than its own subsidiary (which amount was manufactured by Beecham, or for Beecham pursuant to a manufacturing agreement, anywhere in the world) during the calendar year prior to the year in which the request is made.

(C) Beecham shall not be obligated to sell any semisynthetic penicillin in bulk form pursuant to section V of this Final Judgment to any person who does not:

(1) Meet reasonable credit requirements;

(2) Give Beecham reasonable advance notification of the quantities it wishes to purchase and the delivery dates it requires.

(D) For each semisynthetic penicillin to be sold in bulk form pursuant to this section V, Beecham shall total all requests therefor made during the first month of each year by all persons, other than Bristol or a person who is a semisynthetic penicillin bulk customer or licensee of Beecham or Bristol as of the date of this Final Judgment; and, if the total of such requests for any semisynthetic penicillin exceeds the amount Beecham is required to sell pursuant to this section V, then Beecham shall meet such requests (unless it meets them fully) on a reasonable pro rata allocation basis. Beecham shall fill all requests made after the first month of each year pursuant to this section V in the order in which they are received until the limits provided by this section V are reached (unless it meets such requests fully).

(E) Beecham may take reasonable steps consistent with the purposes of this Final Judgment to protect itself from any risk of product liability (or other similar liability) suits or violation of Federal or State statutes or regulations.

(F) If for any period 6-APA is temporarily not reasonably available commercially from a source other than Beecham or Bristol, during that time Beecham is ordered to sell 6-APA in bulk form to each person, other than Bristol or a person who is a 6-APA or semisynthetic penicillin bulk customer or licensee of Beecham or Bristol as of the date

of this Final Judgment, making a written request therefor for delivery in the United States and practicing under a license granted pursuant to section VI hereof, on nondiscriminatory terms and prices, and in quantities sufficient to meet such person's bona fide stated requirements for his manufacture and sale of semisynthetic penicillin(s) in the United States. The provisions of paragraphs (B), (C), and (E) of this section V, applicable to sales of semisynthetic penicillins in bulk form, shall be applicable to sales of 6-APA in bulk form made pursuant to this paragraph (F), except that the amount of such require sales in any year shall not exceed 15 percent of the amount (measured by weight) of 6-APA that Beecham used in making semisynthetic penicillin(s) that it sold in the United States to any person other than its own subsidiary (which amount of 6-APA was manufactured by Beecham, or for Beecham pursuant to a manufacturing agreement, anywhere in the world) during the calendar year prior to the period in which 6-APA was not so available.

(G) Beecham is ordered to file a statement with this Court, on the date of this Final Judgment, listing each semisynthetic penicillin:

(1) That is claimed in any unexpired semisynthetic penicillin patent,

(2) That Beecham sold in the United States prior to such date, and

(3) That Beecham has the right to sell in bulk form in the United States on the date of this Final Judgment.

VII

(A) Beecham is ordered to grant, without charge, to each person (other than Bristol), who makes a written request therefor, an irrevocable covenant not to sue (on behalf or for the account of Beecham or anyone else) for any alleged infringement of:

(1) Any patent in connection with the manufacture, use, or sale of ampicillin at any time (whether prior or subsequent to the date of this Final Judgment); or

(2) Any semisynthetic penicillin patent (including, but not limited to, each patent that issued on any application for a patent) that Beecham assigned or licensed to Bristol pursuant to their agreements of April 2, 1959, and August 1, 1960, in connection with the manufacture, use, or sale of any other semisynthetic penicillin at any time (whether prior or subsequent to the date of this Final Judgment), provided, however, that the obligation of Beecham to grant the covenant, and the duration of any covenant so granted, pursuant to this section VI(A)(2) shall only run for that period of time in which there shall remain pending the action brought by the United States against Bristol herein. Beecham may charge for such covenant an amount equal to that which it is legally obligated to pay (as of the date of this Final Judgment) and in fact pays any person, other than Bristol, by reason of the grant of such covenant.

(B) Nothing in section VI(A) shall prevent Beecham from being joined by any person as an involuntary party in or, pursuant to such joinder and to the extent required by it, participating in any such infringement suit instituted by Bristol, so long as such participation does not result in any recovery for Beecham's account.

(C) Beecham is ordered to grant, to each person (other than Bristol) who makes a written request therefor, an irrevocable license, at a reasonable royalty rate and on

reasonable and nondiscriminatory terms, under any, some, or all semisynthetic penicillin patents (as the person making such request may wish) that Beecham has the right to license as of the date of any such request.

(D) Nothing herein shall prevent any applicant from attacking the validity or scope of any patent or patents to be licensed by Beecham pursuant to this section VI of this Final Judgment; nor shall this Final Judgment be construed as imputing any validity or invalidity to any of such patents.

(E) Beecham is ordered to file with this Court, on the date of this Final Judgment, a statement listing each semisynthetic penicillin patent that is owned by or assigned or licensed to Beecham and that Beecham has the right to license of sublicense.

VII

(A) Beecham is ordered to furnish to each person, other than Bristol, making a bona fide written request therefor, and to license such person to use, in connection with the manufacture, use, or sale of semisynthetic penicillins in the United States, or with the practice of semisynthetic penicillin patents in the United States, any, some, or all semisynthetic penicillin technical data (as to the person making such request may wish) that relates to:

(1) Ampicillin;

(2) The commercial exploitation of only the semisynthetic penicillin patents licensed to such person pursuant to section VI of this Final Judgment;

(3) Using, bulk processing (including the conversion of semisynthetic penicillins from bulk form to dosage form), or securing of FDA approval to market any semisynthetic penicillin claimed in a semisynthetic penicillin patent; (a) That such person makes or had made under a license granted pursuant to section VI of this Final Judgment; (b) That such person purchases from Beecham pursuant to section V of this Final Judgment, from a licensee of Beecham or Bristol for such semisynthetic penicillin, or from a person practicing under a license for such semisynthetic penicillin granted pursuant to section VI hereof. There shall be no upper limit on the number of requests made under this Section VII.

(B) The charge for such semisynthetic penicillin technical data shall be as follows:

(1) For semisynthetic penicillin technical data in the public domain and for semisynthetic penicillin technical data (whether or not in the public domain) used for manufacturing, bulk processing, using, or securing FDA approval to market ampicillin;

(a) The actual out-of-pocket cost to Beecham of reproducing the data supplied; and

(b) A royalty or fee equal to that which Beecham is legally obligated to pay (as of the date of this Final Judgment) and in fact pays to any person other than Bristol, by reason of the grant of a license thereof;

(2) For other semisynthetic penicillin technical data not in the public domain; a reasonable royalty for its use other than in connection with ampicillin, such royalty to terminate with respect to any such technical data that falls into the public domain for any reason other than the wrongful act of a licensee.

(c) In furnishing and licensing semisynthetic penicillin technical data pursuant to this section VII, Beecham may:

(1) require the person receiving such technical data to execute an appropriate agree-

ment forbidding its disclosure to any third party without Beecham's consent, so long as such technical data is not otherwise in the public domain; but such person may disclose such technical data to any third party who agrees to be bound by such agreement, and who manufactures or processes any semisynthetic penicillin solely for a licensee or bulk purchaser under this Final Judgment; and

(2) apply legends to such technical data indicating its proprietary nature.

VIII

(A) Beecham is ordered to assign at a time specified in paragraph D of this section VIII, upon written request and without charge, each trademark identified in paragraph (B) of this section VIII, together with the good will associated with it, to the person who marketed a semisynthetic penicillin under such trademark, as described in paragraph (C) of this section VIII.

(B) The trademarks to be assigned pursuant to this section VIII are those (other than "Penbritin" or "Penbritin S") that Beecham prior to the date of this Final Judgment (1) registered in the U.S. Patent and Trademark Office, and (2) allowed another person to use in connection with the U.S. sale of a semisynthetic penicillin that Beecham supplied to such person, as described in paragraph (C) of this section VIII.

(C) The persons to whom Beecham is required to assign a trademark pursuant to this section VIII are those who, at any time prior to the date of this Final Judgment:

(1) were supplied by Beecham with a semisynthetic penicillin for U.S. sale only under such trademark;

(2) were authorized to use such trademark only for the U.S. sale of such semisynthetic penicillin supplied by Beecham, unless Beecham was itself unable to supply it; and

(3) agreed with Beecham that, while such persons were so marketing such semisynthetic penicillin, Beecham would neither sell nor authorize anyone else to sell such semisynthetic penicillin in the United States under such trademark.

(D) Beecham shall make the assignments of trademarks pursuant to this article VIII at such time as (1) Beecham acquires the right, under the appropriate Beecham-Bristol Agreements of April 2, 1959, August 1, 1960, and January 1, 1967, to sell the semisynthetic penicillin involved under a trademark other than one owned by Beecham; (2) there is a final judgment determining that such agreements are unenforceable insofar as they limit Beecham's rights thereunder to sales by Beecham under trademarks owned by it; or (3) there is a settlement of this action against Bristol and, in connection with such settlement, Bristol complies with a provision corresponding to section IV(C) of this Final Judgment. In the meantime, Beecham is ordered to authorize, within 120 days from the date of this Final Judgment, each person described in paragraph (C) of the section VIII to use the trademark (to be assigned to such person pursuant to this section VIII and described in paragraph (B) thereof) for the U.S. sale of the semisynthetic penicillin involved that such person may procure from any source of his free choice. Beecham may take reasonable steps consistent with the purposes of this Final Judgment to insure that such semisynthetic penicillin procured from a source other than Beecham meets the

standards of quality under which Beecham previously permitted such person to procure such semisynthetic penicillin elsewhere when Beecham was itself unable to supply it, as described in paragraph (C) of this section VIII.

IX

(A) Upon receipt of a written application for a license under section VI or section VII above, Beecham shall within 30 days advise the applicant in writing of the royalties which it deems reasonable for a license of patent(s) or technical data requested and the conditions and terms thereof, if any. If the applicant rejects the royalties, conditions, or terms proposed by Beecham, and if Beecham and the applicant are unable to agree upon reasonable conditions, terms, or royalties, or upon a method of determining reasonable royalties (including arbitration), within 60 days from the date such rejection is communicated in writing to Beecham, the applicant or Beecham may, upon notice to plaintiff and to the other party to the dispute, apply to the Court for (1) the determination of reasonable conditions, terms, and royalties and (2) a preliminary determination of such reasonable interim royalties on patents as the Court may deem appropriate pending the completion of such proceeding. In any such proceeding, the burden of proof shall be upon Beecham to establish that the conditions, terms, and royalties which it proposes are reasonable. Pending the completion of negotiations or any such proceedings, the applicant shall have a provisional license of the scope provided in his application for a license to practice the patent(s) to which his application pertains, subject to the payment to Beecham of reasonable interim royalties on such patent(s): *Provided, however*, That no provisional license shall contravene any of the provisions of this Final Judgment. A final determination of reasonable royalties or that no royalties are to be charged, for practicing the patent(s) shall be applicable from the date upon which the applicant requested a license. Such determination shall, unless otherwise ordered by the Court in proceedings instituted under this section IX, be applicable thereafter to any other licensee then having or thereafter obtaining the same rights under the same patent(s) or technical data. If the applicant fails to accept a patent license after final determination by the Court of the amount of reasonable royalties with respect thereto in a proceeding under this section IX, such applicant shall pay only the interim royalties that may be found by the Court to be due to Beecham with respect thereto and such costs as may be determined by the Court to be just and reasonable.

(B) The licenses granted by Beecham pursuant to sections VI and VII of this Final Judgment shall be without any condition or limitation, except as provided herein, and shall, with respect to patent(s), be granted for a term equal to the life of the licensed patent(s). Such licenses may be cancelled by the licensee upon thirty (30) days' written notice to Beecham.

(C) Beecham is enjoined from conditioning the grant of any license under either section VI or VII of this Final Judgment, or the furnishing of semisynthetic penicillin technical data, upon the grant or acceptance by the licensee of a license under any other United States or foreign patent, or of rights relating to any other technical data.

(D) Reasonable provisions may be made, in the licenses granted by Beecham pursuant to section VI or VII of this Final Judgment, for periodic royalty reports by the licensee, including such reports as may be necessary to allow Beecham to fulfill its obligations, if any, to third parties, and for inspection of the relevant books and records of the licensee by an independent auditor or other person acceptable to both licensor and licensee (or, in the absence of agreement, a person selected by this Court), who shall report to Beecham only the amount of the royalty of other charge due and payable.

X

(A) Beecham is enjoined and restrained from making any sale or other disposition of any right, patent, trademark (where applicable), technical data, or license which deprives it of the power or authority to sell semisynthetic penicillins in bulk form, to grant licenses to practice patents, or to use trademarks or technical data in accordance with the provisions of this Final Judgment, unless the purchaser, transferee, licensee, or assignee of such right, patent, trademark, technical data, or license shall file with this Court, prior to the consummation of any such sale or other disposition, and undertaking to be bound by the provisions of, and to assume the obligations of Beecham under, this Final Judgment with respect to such right, patent, trademark, technical data, or license sold or disposed of thereto.

(B) Beecham is enjoined and restrained from:

(1) Transferring any assets subject to this Final Judgment, other than goods sold or otherwise transferred in the ordinary course of business, to any third party that, according to Beecham's knowledge, proposes to make or has extant any tender offer or takeover bid in respect to the stock and assets of Beecham; has acquired such stock or assets; or has entered into any merger with Beecham or agreement therefor;

(2) Failing or declining to engage in any activity subject to this Final Judgment in order that a third party (as referred to in paragraph (B)(1) of this section) may engage in such activity in lieu of Beecham, unless such third party shall first have submitted to the jurisdiction of this Court and consented to be bound by this Final Judgment to the extent provided by law: *Provided, however*, That Beecham shall be free to take any action prohibited by this section X, if after 30 days' prior notice to plaintiff of Beecham's intent to take any such action plaintiff has not filed any objection thereto with this Court: *And provided further*, That, if plaintiff has filed any such objection, Beecham shall not take such action until (a) such third party has submitted to the jurisdiction of the Court and has consented to be bound by this Final Judgment to the extent provided by law, or (b) the Court shall have ruled that Beecham may take such action without such submission.

XI

Within ninety (90) days of the date of this Final Judgment:

(A) Beecham is ordered and directed to publish notice of the availability of (1) semisynthetic penicillins for purchase in bulk form pursuant to section V of this Final Judgment, and (2) licenses under semisynthetic penicillin patents and technical data pursuant to sections VI and VII of this Final Judgment, in one issue of *Chemical &*

Engineering News (published by American Chemical Society) and Chemical Week (published by McGraw-Hill, Inc.), and to publish notice of the availability of such licenses in one issue of the Official Gazette of the U.S. Patent and Trademark Office; and

(B) Beecham is ordered and directed to give notice in writing of such availability to each person who since January 1, 1965, has indicated in writing to Beecham an interest in purchasing any semisynthetic penicillin in bulk form in the United States or obtaining a license under any semisynthetic penicillin patent.

XII

(A) For the purpose of securing compliance or determining whether there has been compliance with this Final Judgment, and subject to any legally recognized privilege, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Beecham made to its principal office, be permitted:

(1) access, during regular office hours of Beecham, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or custody or under the control of Beecham relating to any of the subject matter contained in this Final Judgment (including all patent, trademark, trade name, or technical data licenses relating to ethical pharmaceuticals, whether or not containing provisions prohibited by this Final Judgment); and

(2) subject to the reasonable convenience of Beecham, and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of Beecham, who may have counsel present, regarding any such matters: *Provided, however*, That Beecham shall not be obligated to bring to the United States any records or documents or to bring to the United States for the purpose of interview any officer, director, agent, partner, or employee, except on order of this Court specifically so providing.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made for the purpose of securing compliance or determining whether there has been compliance with this Final Judgment, Beecham shall submit such reports in writing with respect to matters contained in this Final Judgment as may be requested.

(C) No information obtained by the means provided in this section XII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance or determining whether there has been compliance with this Final Judgment, or for Federal law enforcement purposes by the United States, or as otherwise required by law.

(D) If, at the time information or documents are furnished by Beecham to plaintiff, Beecham represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Beecham marks the appropriate portion of each pertinent page of such material, "Sub-

ject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to Beecham prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which Beecham is not a party.

XIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, or for the punishment of violations thereof.

XIV

(A) Except as provided in paragraph (B) of this Section XIV, this Final Judgment shall terminate ten (10) years after the date of its entry, and shall thereafter have no force or effect.

(B) (1) The provisions of section VI shall continue in effect until the expiration of the patents required to be licensed thereunder.

(2) The obligation to grant licenses to use semisynthetic penicillin technical data pursuant to the provisions of section VII shall continue in effect until the expiration of Beecham's obligation to license the patents or to sell the semisynthetic penicillins in bulk form to which the licensed semisynthetic penicillin technical data relates.

(3) The compulsory bulk selling provisions of section V shall continue in effect, as to 6-APA and each semisynthetic penicillin (other than ampicillin) required to be sold in bulk form thereunder, until the expiration of the last of the patents owned by or assigned or licensed to Beecham which claims 6-APA or that semisynthetic penicillin, or ten (10) years after the date of this Final Judgment, whichever is sooner.

(4) The compulsory bulk selling provisions of section V, as to ampicillin, shall continue in effect for ten (10) years after the date of this Final Judgment.

XV

Within 60 days of entry of this Final Judgment, Beecham shall pay the sum of \$1 million to the order of the Treasurer of the United States in consideration for a covenant by the United States not to sue Beecham on any claim set forth in the complaint herein, including (1) any claim in respect of damages which may have been sustained by the United States, by reason of its direct and indirect purchases of ampicillin, and (2) any claim based upon the violations alleged in the complaint in respect of damages which may have been sustained by the United States, by reason of its direct and indirect purchases of other semisynthetic penicillins, including expenditures of money under any domestic or foreign aid or welfare program made during the period beginning four years preceding the date of filing the complaint in this action and ending on the date of entry of this Final Judgment.

XVI

If a final judgment in this matter against Bristol is consented to by the United States of America which omits any injunctive provision applicable to Beecham herein, or which contains any such provision that dif-

fers from any provision herein (other than Article VIII herein), in that it is more favorable to Bristol than the corresponding provision of this Final Judgment in respect of Beecham, then the United States of America agrees that Beecham shall have the right to apply to this court to have any provision of this Final Judgment modified to the extent necessary to conform such provision in this Final Judgment with the corresponding provision of any such final judgment against Bristol. The United States of America may join in, oppose or take no position with respect to any such application.

XVII

For the purpose of continued discovery against Beecham, Beecham and the United States of America have entered into an agreement providing therefor; that agreement is attached as Exhibit A hereto and made a part of this Final Judgment.

XVIII

Entry of this Final Judgment is in the public interest. There is no just reason for delay of entry of this Final Judgment against Beecham, and the entry of this Final Judgment is now expressly directed.

Dated: _____

U.S. District Judge.

EXHIBIT A

1. The United States recognizes that there has been some substantial prior interrogatory and document discovery from Beecham and that a principal consideration on Beecham's part in entering into this settlement is to avoid unreasonable intrusion into and disruption of its normal business affairs and diversion of Beecham personnel from Beecham's business affairs. Accordingly, the United States will exert its best efforts to minimize the burden of the requests it will make of Beecham pursuant to this paragraph, to coordinate its discovery hereunder with that of attorneys for the CCS Plaintiffs in this action, to avoid unnecessarily repetitious discovery, and to conduct expeditiously interviews and depositions of Beecham personnel. Accordingly, the United States agrees that any further discovery from Beecham shall be conducted in accordance with the terms stated below. So long as the U.S. action continues against Bristol, and solely for the purpose of the continuation of said actions against Bristol, Beecham—

(a) Will make available to CCS Plaintiffs' attorneys and attorneys for the United States (hereinafter the "Governmental Entity Attorneys"), a reasonable number of Beecham's officers, directors, managing agents and employees ("Beecham Personnel")* as said attorneys may identify for informal interviews respecting the subject matter of the CCS or United States Actions. As to Beecham Personnel who reside in and whose principal place of business is in the United Kingdom, such interviews shall take place in the United Kingdom at, to the extent possible, one central, convenient location in metropolitan London, England (such as the London offices of Shearman &

* A reasonable number means those Beecham Personnel previously specified by the United States and a reasonable number of Beecham Personnel in addition thereto.

Sterling, Beecham House, or such other places) and at such times as may be mutually agreed upon, except that as to Beecham Personnel who have their place of business or residence outside the United States, such interviews may also be held in the United States on those occasions when such Beecham Personnel are in the United States on business, at such times as may be mutually agreed upon. As to Beecham Personnel who reside in and whose principal place of business is in the United States, or as to such personnel who reside outside or whose principal place of business is outside the United States and who are to be interviewed in the United States on occasions when they are in the United States on business, such interviews shall take place in New York City at the law offices of Shearman & Sterling at such times as may be mutually agreed upon;

(b) Will use its best efforts to assist the Governmental Entity Attorneys in obtaining written statements from such Beecham Personnel;

(c) Will use its best efforts to assist the Governmental Entity Attorneys in locating, obtaining interviews with, obtaining written statements from, deposing and securing the presence at trial of retired or former Beecham Personnel;

(d) Will use its best efforts to comply with Governmental Entity Attorneys' requests for inspection and copying of further documents relating to the subject matter of the CCS or United States Actions and for further information relating thereto provided that such requests are not unduly burdensome and the United States will pay the costs of copying such documents;

(e) Will produce at any trial of the CCS or United States actions against Bristol before a judge or jury at the place of trial or, in the alternative (if the Governmental Entity Attorneys so elect), at depositions for the purpose of giving testimony, such Beecham Personnel who have been interviewed (except those persons who have been deposed in these CCS or U.S. actions at the instance of the CCS Plaintiffs or the United States) as Governmental Entity Attorneys may request, provided, however, that if Governmental Entity Attorneys believe in good faith, in rare and exceptional cases, that it will be essential to the successful prosecution of their actions against Bristol to produce a witness at trial whose deposition has been previously taken at such attorneys' instance in accordance with this procedure, then Beecham will produce such Beecham Personnel at trial; in making the good faith judgment that the production of a witness at trial who has already been deposed in accordance with this procedure is "essential" as aforesaid, Governmental Entity Attorneys will take into account Beecham's considerations and objectives as stated in paragraph 1 above. The situs and times of any depositions shall be determined in accordance with paragraph 1(a) above, except that depositions of Beecham Personnel who reside in the United States or which are taken in the United States when such persons are in the United States on business in accordance with paragraph 1(a), shall be taken in Washington, D.C.

Each party shall bear its own costs and expenses respecting performance under this paragraph except that as to any Beecham Personnel requested to appear at trial, CCS Plaintiffs and the United States shall advance and pay for the reasonable costs of transportation (limited to economy class

fares in regularly scheduled airlines), for such personnel to and from the place of trial and for the reasonable costs of meals and lodging for such times as their attendance at trial is required.

2. To facilitate the continued prosecution of the CCS and U.S. actions, Beecham agrees that the procedures described in paragraph 1 above may begin as soon as this Final Judgment is filed by the United States with the United States District Court for the District of Columbia in accordance with the requirements of 15 USC 16. The parties will cooperate in resolving any dispute as to objections Beecham may raise during the taking of discovery pursuant to paragraph 1 including promptly raising any such questions by telephone or otherwise with the Court for a prompt resolution thereof.

3. Beecham will withdraw its motion, filed June 1, 1978, seeking leave to reargue, and upon reargument, allowance of its claims of privilege for patent agents' communications and, pursuant to the Court's order filed March 20, 1978, will produce to Governmental Entity Attorneys those documents, or portions thereof, as to which the Court, in said order, overruled its claims of privilege. Beecham specifically does not waive either its claim that said documents and portions thereof, under the law properly interpreted and applied, are privileged or its claim that the Court's memorandum opinion, also filed March 20, 1978 accompanying said order, improperly interprets and applies the law of privilege as respects patent agents.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Bristol-Myers Co., Beecham Group Ltd., and Beecham, Inc.*, Defendants. M.D.L. Docket No. 50; Civ. No. 822-70. Filed: October 25, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry against Beecham Group Ltd., and Beecham, Inc., in this civil antitrust action.

I. NATURE AND PURPOSE OF THE PROCEEDING

A. THE COMPLAINT

The Government filed this civil antitrust suit on March 19, 1970, alleging that defendants Beecham Group Ltd., ("Beecham"), Beecham, Inc. (Beecham's American subsidiary), and Bristol-Myers Co. ("Bristol") violated sections 1 and 2 of the Sherman Act by: (1) Combining and conspiring to monopolize and restrain trade and commerce in "semisynthetic penicillins," a class of penicillins produced by the defendants; (2) actually monopolizing trade and commerce in a particular semisynthetic penicillin called "ampicillin"; (3) fraudulently procuring and enforcing a U.S. patent on ampicillin;¹ (4) restrictively licensing and granting rights under that and other patents relating to semisynthetic penicillins; and (5) restraining and preventing the sale of semisynthetic penicillins in bulk form, generically, or

¹ Ampicillin is claimed in U.S. Pat. No. 2,985,648, which issued to Beecham on May 23, 1961 ("the ampicillin patent"). That patent expired on May 23, 1978.

under any trademark or trade name other than a licensee's own trademark or trade name. The complaint also alleges that the ampicillin patent and another U.S. patent claiming a different form of ampicillin² are both invalid on statutory grounds (viz, 35 U.S.C. 102, 103, and 112). Finally, the complaint alleges that, as a result of the foregoing violations, the Government was overcharged on its direct and indirect purchases of ampicillin (including expenditures of money under various welfare programs).

The prayer for relief sought: (1) Cancellation of Beecham's ampicillin patent; (2) declarations that Beecham's ampicillin and Bristol's ampicillin trihydrate patents were invalid and an injunction against asserting any rights under either of those patents; (3) compulsory, royalty-free licensing of all technical data relating to ampicillin; (4) compulsory, reasonable-royalty licensing of: (a) All U.S. patents (not declared invalid) relating to semisynthetic penicillins, and (b) all other semisynthetic penicillin technology not relating to ampicillin; (5) an injunction against defendants' maintaining or entering into new agreements having the restrictive effects challenged in the complaint; (6) compulsory bulk sales of ampicillin and other semisynthetic penicillins; and (7) damages in an unspecified amount.

B. THE PRODUCTS INVOLVED

Semisynthetic penicillins are antibiotics made, at least in part, by chemical synthesis from 6-aminopenicillanic acid ("6-APA"). Ampicillin is a broad-spectrum antibiotic and the most widely used semisynthetic penicillin; most other semisynthetic penicillins are prescribed only for specific types of bacterial infection. In 1974, Beecham introduced amoxicillin, a semisynthetic penicillin claimed to be a preferable substitute for ampicillin. Amoxicillin is now being sold in the United States by Beecham, Bristol, Hoffmann-LaRoche (which buys from Beecham), Biocraft Laboratories (one of the private plaintiffs in this litigation), American Home Products ("AMHO," the Wyeth Division of which buys from Mylan), Parke-Davis, and E. R. Squibb, A. H. Robbins, and several other companies (which all buy from Biocraft). Currently, the dollar volume of sales of amoxicillin is said to exceed that of ampicillin. While a number of semisynthetic penicillins (besides ampicillin and amoxicillin) are being sold in the United States, certain other semisynthetic penicillins are being marketed only outside the United States or are the subject of pending applications for FDA approval and certification for future sale in the United States.

² Ampicillin trihydrate (a form of ampicillin in which each ampicillin molecule is chemically bound to three molecules of water) is claimed in U.S. Pat. No. 3,157,640, which issued to Bristol on November 17, 1964 ("the ampicillin trihydrate patent"); however, that patent is dominated by Beecham's ampicillin patent. There are also anhydrous forms of ampicillin (i.e., substantially free of chemically bound water); these forms are covered by: Bristol's U.S. Pat. No. 3,472,841 (issued October 14, 1969); Bristol's pending U.S. patent application (Serial No. 408,191, filed November 2, 1964); and American Home Products' U.S. Pat. No. 3,144,445 (issued August 11, 1964).

II. THE PRACTICES AND EVENTS GIVING RISE TO ALLEGED VIOLATIONS OF THE SHERMAN ACT

A. THE 1959 AGREEMENT

Beginning at least as early as 1959, Beecham and Bristol entered into a series of complex commercial arrangements and agreements relating to semisynthetic penicillins. The most important of these agreements was one dated April 2, 1959, and amended August 1, 1960 ("the 1959 agreement"). Pursuant to that agreement the defendants exchanged patent rights and know-how relating to semisynthetic penicillins. Beecham received informative and active assistance concerning penicillin production. Among the rights received by Bristol was an exclusive license, with the right to sublicense, under Beecham's ampicillin patent and other patents relating to semisynthetic penicillins. Bristol agreed to pay on its sales of licensed products in bulk form (or on those of its sublicensees) royalties that are two times the royalties for such sales in dosage form. Beecham ended up with the right to sell the licensed semisynthetic penicillins in the United States only in dosage form and only under its own trademarks.

B. THE AGREEMENT TO PROSECUTE PATENT APPLICATIONS JOINTLY

Pursuant to a separate agreement of April 14, 1959, Beecham and Bristol jointly prosecuted several Beecham patent applications licensed to Bristol under the 1959 agreement, including those relating to ampicillin. As noted above, the complaint alleges that Beecham and Bristol procured the ampicillin patent by fraudulent and/or inequitable conduct before the U.S. Patent and Trademark Office ("the Patent Office").

This alleged joint conduct involves: (1) Failing to advise the Patent Office of a prior art reference that, together with another prior art reference actually cited by the patent examiner, would have supported a rejection under 35 U.S.C. 103 of all claims in the ampicillin patent; (2) delaying publication of an article relating to the allegedly withheld prior art reference; and (3) failing to advise the Patent Office as to the exact nature of certain experiments reported in affidavits that defendants filed with the Patent Office in order to overcome its rejection of all claims in one of the ampicillin patent applications.

Additional allegedly improper conduct discovered by the Government includes: (1) Defendants' failing to make of record in the Patent Office certain other affidavits allegedly shown to and discussed orally with the patent examiner during an interview; (2) defendants' tendentiously describing certain reports underlying a second prior art reference upon which the patent examiner relied in rejecting the claims in one of the applications leading to the ampicillin patent, but failing to submit such reports to or make them of record in the Patent Office; and (3) Bristol's inconsistency in taking one position (i.e., that the reports underlying the second cited reference did not disclose the "concept" of the invention claimed in one of the ampicillin patent applications) before the U.S. Patent Office in *ex parte* prosecution of Beecham's U.S. ampicillin patent, and Bristol's taking a directly contrary position (i.e., that ampicillin was obvious in view of the disclosure of that concept in such reports) before a British court in attacking

the validity of Beecham's corresponding British ampicillin patent (while defending a charge that its sales of hetacillin, a combination of ampicillin and acetone, infringed that patent).

C. THE 1967 AGREEMENTS

Beecham and Bristol entered into several agreements dated January 1, 1967. Pursuant to those agreements, the defendants cross-licensed one another to practice certain U.S. semisynthetic penicillin patents issued since 1961,³ with the mutual restriction that each would sell the licensed products only in dosage form and only under its own trademarks; defendants also licensed others under the same patents, imposing the same restrictions on these licensees and sublicensees.

D. SUBLICENSE AGREEMENTS AND OTHER MARKETING ARRANGEMENTS

1. Involving Bristol

Pursuant to the exclusive rights granted to it under the 1959 agreement, Bristol granted nonexclusive sublicenses to Squibb on December 1, 1959, and to the Wyeth Division of AMHO on January 15, 1960; each got the right to sell ampicillin and other licensed semisynthetic penicillins, but only in dosage form and only under its own trademarks or trade names. Bristol amended its sublicense agreements with Squibb and Wyeth in March, 1969 (about the time the Government began its investigation of defendants' semisynthetic penicillin activities). In amending those agreements, Bristol removed from them the provisions for sales only in dosage form and only under the licensee's own trademarks or trade names; instead, Bristol added provisions that impose a higher royalty rate on sales in bulk form than on sales in dosage form. Subsequently, Bristol agreed in writing to supply ampicillin in bulk or dosage form (and has supplied it in dosage form) to Parke-Davis and Upjohn, and to supply it in dosage form to Smith Kline & French.

2. Involving Beecham

Since about November 1962, Beecham and the Ayerst Division of AMHO have entered into various marketing arrangements, trademark licenses, and purchase agreements, pursuant to which Beecham has supplied Ayerst with ampicillin for Ayerst's sale under Beecham's "Penbritin" trademark and has also supplied Ayerst with other semisynthetic penicillins for Ayerst's sale under trademarks that Beecham registered in the United States. More recently, Beecham also began supplying ampicillin to Lederle for Lederle's sale under the trademark "Alpen" and to Pfizer for Pfizer's sale under the trademark "Pen A", both of which trademarks were registered in the United States by Beecham.

³These patents included Bristol's ampicillin trihydrate patent, Beecham's dicloxacillin/flucloracillin patent (No. 3,239,507), Bristol dicloxacillin patent (No. 3,317,389), a patent (No. 3,159,617) assigned to Bristol and relating to the acylation of 6-APA (a crucial step in commercial production of all semisynthetic penicillins), and other U.S. patents relating to semisynthetic penicillins that were assigned or licensed (along with the right to sublicense) to Beecham or Bristol by a third party.

E. ENFORCEMENT OF THE AMPICILLIN PATENTS

On May 7, 1969, Beecham brought suit in the District of New Jersey charging Zenith Laboratories with infringement of Beecham's ampicillin patent. Zenith counterclaimed charging Beecham with antitrust violations and also naming Bristol and AMHO as defendants. Bristol counterclaimed charging Zenith with infringing Bristol's ampicillin trihydrate patent and also naming Ankerfarm, Zenith's Italian supplier, as a defendant on the counterclaim. This suit is still pending and has been consolidated for discovery with the government's and other plaintiffs' suits.

In 1970, Beecham also instituted a proceeding before the International Trade (formerly the Tariff) Commission seeking to prevent Zenith from importing ampicillin. Beecham withdrew its complaint in October 1973.

III. EXPLANATION OF THE PROPOSED JUDGMENT AND ITS ANTICIPATED EFFECT ON COMPETITION

The United States and Beecham have stipulated that the proposed consent judgment, in the form negotiated by and between the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed judgment provides that there has been no admission by any party with respect to any issue of fact or law. Under the provision of section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

The proposed judgment would, with certain exceptions, eliminate from all existing prescription-drug licenses, and prohibit the introduction into all future such licenses, Beecham's challenged restrictions against: (1) sales in bulk form; (2) sales under any trademark or trade name other than a licensee's own trademark or trade name; and (3) sales outside the so-called "drug trade" (i.e., retailers and wholesalers of drugs, and hospitals, doctors, dentists, veterinarians, and governmental agencies or entities purchasing drugs, whether for their own use or for resale). It would also be expected to bring new competition into the semisynthetic penicillin market. In order to do this, the proposed judgment would provide for: (1) compulsory licensing of patents relating to certain semisynthetic penicillins and of related know-how; (2) granting of covenants not to sue on patents relating to certain other semisynthetic penicillins; (3) compulsory bulk sales of such semisynthetic penicillins; and (4) assignment of (or authorization to use) certain semisynthetic penicillin trademarks. The major provisions of the proposed judgment are discussed below.

A. PARTIES COVERED BY THE PROPOSED JUDGMENT

Only two of the three defendants (Beecham Group Ltd. and Beecham Inc.) are to be parties to this proposed consent judgment; therefore, the government will have to proceed with preparation for trial and with trial of this case against the remaining defendant, Bristol, even if this proposed judgment is entered. Nevertheless, the United States proposes to consent to entry of this judgment primarily because (1) elimination of Beecham as a party should simplify preparation for trial and trial of this case against Bristol, and (2) it provides

for most of the specific equitable relief that the complaint seeks from Beecham and that Beecham is now in a position to provide.

That relief, however, is limited because of the several agreements between Beecham and Bristol that are challenged in this case. As for compulsory patent licensing, for example, Beecham does not have the right to license any of the patents covered by its 1959 agreement with Bristol, having already given up to Bristol under that agreement the right to sublicense those patents. And as for compulsory bulk sales, Beecham is contractually barred (by its 1959 and 1967 agreements with Bristol) from selling certain semisynthetic penicillins (including ampicillin) in bulk form, under a trademark other than a Beecham trademark, or outside the drug trade. Similarly, the injunctive provisions of the proposed judgment also provide for limited relief, in part, because of the same challenged agreements (see Part VII(G)(1), pp. 36-37, *infra*).

We will, of course, continue to challenge the 1959 and 1967 Beecham-Bristol agreements in prosecuting this case against Bristol, and, if successful, we would expect to get from Bristol whatever relief we did not get from Beecham. In any event, the proposed judgment would require Beecham to license the patents and to sell in bulk form the semisynthetic penicillins covered by its 1959 and 1967 agreements with Bristol if those agreements are amended so as to allow Beecham to do so, or if there is a determination that such agreements are unenforceable.

B. SECTION IV: INJUNCTIVE RELIEF

The injunctive provisions of the proposed judgment would prohibit Beecham for 10 years from maintaining or entering into any agreement or understanding (whether or not in the form of a patent, trademark, trade name, or know-how license) that restrains any other party to such agreement or understanding from selling any prescription drug: (1) in any manner or form; (2) under any designation (i.e., trademark, trade name, label, or generic, established, or official name); or (3) to any person of the party's free choice. In addition, such provisions would similarly prohibit any agreement or understanding that authorizes any other party thereto to sell any prescription drug in some manner or form, under some designation, or to some person(s), unless it also permits such party to sell such drug in any and all other manners or forms, under any and all other designations, or to any and all other persons of the party's free choice. Finally, any agreement or understanding that contains royalty or other fee provisions having the purpose or effect of so restraining or limiting any other party thereto would also be prohibited.

The following agreements are excluded from the injunctive provisions of the proposed judgment: (1) exclusive licenses, or exclusive distributorship agreements, that do not otherwise restrain the other party in any prohibited way; or (2) agreements that constitute settlement of a bona fide trademark infringement (or similar) dispute.

C. SECTION V: COMPULSORY BULK SALES

Section V would require Beecham to sell ampicillin in bulk form for 10 years and to sell all other semisynthetic penicillins (claimed in a "semisynthetic penicillin patent," as defined in Section II) in bulk form for 10 years or until the last of such

patents claiming them expires (whichever is sooner). Beecham must sell to anyone, other than Bristol or a current semisynthetic penicillin bulk-customer or licensee of Beecham or Bristol, who makes a written request.

Section V would call for compulsory bulk sales of semisynthetic penicillins (including ampicillin) only if, at the time of such request, Beecham (1) is selling the requested semisynthetic penicillin in the United States, and (2) has the right to sell it in bulk form in the United States. In that event, Beecham would be required to make such sales only in the chemical form (i.e., the anhydrous, trihydrate, salt, or ester form of ampicillin, for example) in which it is then selling the requested semisynthetic penicillin in the United States.

Section V would also require that Beecham make available for such compulsory bulk sales 15 percent of the amount (by weight) of each requested semisynthetic penicillin that Beecham sold in any form in the United States to anyone other than its own subsidiary (which amount was made by or for Beecham anywhere in the world) in the previous calendar year.⁴ If compulsory bulk-sales requests received in January of each year exceed this 15 percent limit, then such requests will be met on a reasonable pro rata allocation basis. All requests received after January will be filled in the order in which they are received.

Because of the importance of 6-APA in making all semisynthetic penicillins, Beecham is also required to sell 6-APA in bulk form in the event that it becomes temporarily unavailable commercially from a source other than Beecham or Bristol. In that event, Beecham must make available for such compulsory sales 15 percent of the amount of 6-APA that Beecham made or had made anywhere in the world and used in making semisynthetic penicillins that it sold in the United States to anyone other than its own subsidiary in the previous calendar year.

Compulsory bulk sales are necessary in order to insure at least some domestic source of ampicillin and other semisynthetic penicillins. Such a source is important for generic sellers of drugs and other drug companies that may not have their own manufacturing capacity and for whom, therefore, a manufacturing license would be of no use. In addition, a domestic bulk source may be important for those semisynthetic penicillins for which the U.S. dollar volume (while not insignificant) may not be large enough to induce foreign manufacturers to bear the cost of FDA approval and certification. Moreover, the duty on imported drugs (based upon a so-called "American Selling Price" that is often far greater than any actual domestic price) can be a significant competitive disadvantage.

In addition, this relief is important because it may provide the only relief available for certain semisynthetic penicillins—e.g., those claimed in a U.S. patent owned by

⁴Beecham submitted data and other information concerning its production capacity for review by government counsel. The 15 percent limitation on the proportion of that capacity to be made available for compulsory bulk sales seemed to be a reasonable compromise between the public interest to be served by that relief (see pp. 12-13, *infra*) and Beecham's need to meet its own requirements and to fill its current contractual obligations.

someone other than Beecham. Carbenicillin is one such semisynthetic penicillin, which Beecham has the right to sell (pursuant to an agreement with Charles Pfizer Inc.) but which it has no right to sublicense. (Bristol has no right either to sell or license that semisynthetic penicillin.) Thus, without compulsory bulk sales of carbenicillin, as provided for in the proposed judgment, Beecham could not offer any relief at all concerning this important semisynthetic penicillin.

D. SECTIONS VI AND VII: COMPULSORY PATENT AND KNOW-HOW LICENSING

1. Ampicillin

Paragraph (A)(1) of section VI would require Beecham to grant to all applicants (other than Bristol) irrevocable covenants not to sue for any past, present, or future infringement of any U.S. patent, and not to sue for royalties on any such patent, in connection with making, using, or selling any form of ampicillin; such a covenant would extend to: (a) any Beecham patent claiming a form of ampicillin; (b) any other semisynthetic penicillin patent that is subject to compulsory licensing under this judgment (see note 7, p. 16, *infra*); and (c) any other U.S. patent (whenever issued and whether or not subject to compulsory licensing under this judgment) that may be practiced in connection with making, using, or selling ampicillin in any form.

Beecham may not charge for such a covenant, unless it is legally obligated to pay (as of the date of the proposed judgment) any person, other than Bristol, by reason of the grant of such covenant; in which case, Beecham may charge no more than what it is so obligated to pay and in fact pays such person.⁵ Beecham is thereby prevented from profiting further from the alleged conspiracy to monopolize and restrain trade and commerce in ampicillin and to procure the ampicillin patent by alleged fraudulent or inequitable behavior.

2. Amoxicillin

With respect to the patents relating to amoxicillin ("the amoxicillin patents"), the proposed judgment would not require Beecham to grant any rights under those patents.⁶ Moreover, the judgment expressly ex-

⁵According to its counsel, Beecham's only such obligation is to pay Farbenfabriken-Bayer a certain fee based on the amount of 6-APA produced by any sublicensee of Beecham under U.S. patents Nos. 3,116,218 and 3,260,653 (both relating to an enzymatic process for making 6-APA from penicillin G), and then used in making semisynthetic penicillins.

⁶There is a dispute between Beecham and Bristol over which of them has the exclusive rights to the amoxicillin patents. During settlement negotiations in February 1975, counsel for defendant Bristol informed Government counsel of Bristol's contract dispute with Beecham and of Bristol's contention that it received the exclusive rights to those patents pursuant to the 1959 agreement. Beecham disputes that contention.

At the same time, Bristol's counsel asserted that there was considerable doubt as to the validity of the amoxicillin patents. Beecham has disputed that assertion too.

In August 1977, Beecham sued Bristol for infringement of the amoxicillin patents (C.A. No. 77-274, D. Del.). Bristol has de-

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cludes the amoxicillin patents from those patents (i.e., "semisynthetic penicillin patents", as defined in Paragraph II(L)) that are subject to compulsory licensing under the judgment, unless it is agreed by Beecham and Bristol or established in any proceeding that such patents are licensed by Beecham to Bristol under their 1959 agreement (in which case, such patents would be subject to compulsory licensing under the proposed judgment).

3. Other semisynthetic penicillins

Paragraph (A)(2) of section VI would require Beecham to grant to all applicants (other than Bristol) irrevocable covenants not to sue for any past, present, or future infringement of any U.S. patent (other than those claiming ampicillin) that Beecham licensed or assigned to Bristol pursuant to the 1959 agreement. As with the ampicillin covenants referred to above (Part III(D)(1), pp. 13-14, *supra*), Beecham may charge for these covenants no more than what Beecham must pay and in fact pays someone other than Bristol by reason of the grant of such covenants. Beecham's obligation to grant covenants pursuant to paragraph (A)(2), and Beecham's obligation under any such covenant so granted, will run only for so long as this action is still pending against Bristol.

Without this relief, Beecham could, under the 1959 agreement, still sue to enforce the patents covered by that agreement, even though Beecham could not license those patents in settlement of an enforcement suit or otherwise (having given up that right to Bristol). Any such enforcement of those patents by Beecham would, therefore, primarily benefit Bristol, the exclusive licensee under them. In this lawsuit the Government has challenged (and will continue to challenge) as unlawful Bristol's enforcement of any right it may have acquired under the 1959 agreement that has the purpose or effect of excluding competition. Accordingly, it is the Government's position that Beecham should not be able to do for Bristol's benefit what Bristol has been (and will be) challenged in doing for its own benefit.

Paragraph (C) of section VI would require licensing of all "semisynthetic penicillin patents"⁷ (other than those claiming ampicillin) that Beecham has the right to license

as of the date of a request therefor, at a reasonable royalty rate, except when such patents are used in connection with ampicillin (see Part III(D)(1), pp. 13-14, *supra*). The patents so licensed may be used for any purpose (as the applicant therefor may wish), including (but not limited to) making, using, or selling; (a) 6-APA; (b) any semisynthetic penicillin (whether patented or not); and (c) any starting material or intermediate from which a semisynthetic penicillin is made. Thus, patent subject to compulsory licensing under the proposed judgment may be used in connection with a semisynthetic penicillin not covered by a patent or covered by a patent that is not subject to such licensing, or a patent that is owned by someone other than Beecham.

4. Technical data and know-how

Section VII would require Beecham to furnish and license the use of certain technical data or know-how relating to semisynthetic penicillins and/or to the patents subject to compulsory licensing. It would include all such know-how and data that: (a) Was submitted by Beecham to the FDA prior to any request for it under this section; (b) relates to using or processing semisynthetic penicillins and was known to Beecham prior to any request for it; and (c) relates to manufacturing semisynthetic penicillins and was known to Beecham prior to the date of the judgment. However, the know-how or technical data to be furnished and licensed under the proposed judgment would not include any such information that relates to: (a) Making semisynthetic penicillins if it were first known to or developed by defendant after the date of the judgment; (b) penicillin fermentation; or (c) making 6-APA or any other starting chemical or material, unless such other chemical or material is commercially unavailable (at the time of any request) from a source other than Beecham or Bristol.

For furnishing and licensing the use of semisynthetic penicillin know-how that is in the public domain (and therefore not a trade secret), and for furnishing and licensing the use of that which is used in connection with ampicillin (whether or not in the public domain), Beecham may charge the actual out-of-pocket cost to it of reproducing such know-how, and an amount not to exceed that which it is legally obligated to pay (as of the date of the proposed judgment) and in fact pays anyone, other than Bristol, by reason of furnishing and licensing such know-how. For other semisynthetic penicillin know-how not in the public domain and not used in connection with ampicillin, Beecham may charge a reasonable royalty for its use.

E. SECTION VIII: ASSIGNMENT OF AND AUTHORIZATION TO USE TRADEMARKS

Section VII would require Beecham to assign, without charge, certain trademarks

to semisynthetic penicillins that prior to the date of the judgment Beecham and Bristol assigned or licensed to one another; and (e) any other U.S. patent relating to semisynthetic penicillins that prior to Sept. 26, 1978, was owned by, or assigned or licensed to, Beecham, except: The two patents relating to amoxicillin and three other patents relating to other semisynthetic penicillins (ticarcillin and carfecillin) not yet marketed in the United States.

(together with the goodwill associated with them) to the persons by whom the trademarks were exclusively used in the United States, in marketing a semisynthetic penicillin that Beecham supplied to them. Paragraph D of section VII would require Beecham to make such assignments at such time as (1) Beecham acquires the right to sell the semisynthetic penicillins involved under a trademark other than one owned by it, or (2) there is a determination that agreements restricting Beecham's rights thereunder to sales under trademarks owned by it are unenforceable. In the meantime, however, paragraph VII(D) also requires Beecham to authorize the persons by whom the subject trademarks were previously so used to use such trademarks for the sale of the same semisynthetic penicillin that they purchase from someone other than Beecham.

Assignment of (and authorization to use) such trademarks is essential, even with compulsory, patent-licensing relief, in order to dissipate the anticompetitive effect of a marketing scheme employed by Beecham to avoid the trademark restriction imposed on it by its 1959 agreement with Bristol. That agreement permitted Beecham to sell semisynthetic penicillins *only* under its own trademarks. This meant Beecham could not "privately label" manufacture for another or supply a customer with ampicillin (or other semisynthetic penicillin) in a dosage form or package bearing that customer's own trademark for that customer's resale under such trademark. Instead, Beecham could supply its U.S. customers with dosage form semisynthetic penicillins *only* under a Beecham trademark.

In an effort to get around this trademark restriction, Beecham allowed its customers to select, from a number of unused names or Beecham ideas for possible trademarks, a name under which each customer would like to resell the dosage form semisynthetic penicillin that Beecham supplied to it. Beecham then registered as a trademark in the Patent Office the name selected by its customer; each customer then promoted and marketed the product supplied by Beecham under that name. As a result of this promotional effort, Beecham's customers, rather than Beecham, developed whatever goodwill is associated with, and provided whatever value there is in, these trademarks in the United States. And the fact that Beecham's customers made an investment in a trademark registered by Beecham, rather than in a trademark registered by them in their own name, was attributable directly to the trademark restriction in the 1959 agreement and the way in which Beecham sought to avoid it. Finally, Beecham authorized its customers to use the trademarks that Beecham registered *only* for the sale of a semisynthetic penicillin that Beecham supplied to them.

The effect of this practice has been to insulate Beecham from competition from other suppliers in sales to its customers of ampicillin and other semisynthetic penicillins. This effect will continue unless each of Beecham's customers is free to use, with a semisynthetic penicillin purchased from a source other than Beecham, the trademark that Beecham registered (but only the customer used) in the United States and in which such customer has already made a substantial investment. For after having once made such an investment in a trademark registered by Beecham, these customers have been (and will likely continue to be)

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fended on the grounds that it has an exclusive license under the amoxicillin patents, and that, in any event, those patents are invalid. Beecham's amoxicillin infringement suit against Bristol has been transferred to the District of Columbia and consolidated with several other similar suits, which are all now part of *In re Amoxicillin Patent and Antitrust Litigation* (M.D.L. Dkt. No. 328). The validity of the amoxicillin patents has been challenged on a number of grounds in that litigation.

⁷As defined in para. II(L), these patents include: (a) Those covering 6-APA (U.S. Pat. No. 3,164,604), its manufacture by enzymatic process (U.S. Pat. No. 3,298,924), its recovery (U.S. Pat. No. 2,941,995), isolation (U.S. Pat. No. 3,047,467), and acylation (U.S. Pats. Nos. 3,159,617 and 3,576,797); (b) the patents referred to in note 3, p. 5, and note 5, p. 14; (c) all U.S. patents and applications for U.S. patents that Beecham and Bristol assigned or licensed to one another pursuant to their agreements arrangements of Apr. 2, 1959, Aug. 1, 1960, or Jan. 1, 1967; (d) all other U.S. patents and patent applications relat-

unwilling to make the requisite additional investment in another trademark under which to promote and market the same product purchased from another source. Thus, requiring assignment of (or authorization to use) such trademarks should, the Government believes, further open up the semisynthetic penicillin market to effective competition.

Beecham's worldwide trademarks, "Penbritin" and "Penbritin S," are specifically excluded from the application of section VIII of the proposed judgment. They are so excluded even though the "Penbritin" trademark is the subject of an arrangement (with the Ayerst Division of AMHO) similar to the arrangements that Beecham has with other customers involving trademarks that Beecham is required to assign under the proposed judgment. The reason for this exclusion is that, unlike the trademarks to be assigned under section VIII, Beecham used its "Penbritin" trademarks itself extensively in the United States (and elsewhere) well before entering into its present arrangement with Ayerst. They appear therefore to be bona fide Beecham trademarks.

F. SECTION XV: DAMAGES

As noted above, the prayer for relief sought damages, in an unspecified amount, for overcharges paid on the Government's own direct purchases of ampicillin and on various Federal domestic welfare and foreign aid programs (pursuant to which the Government provided all or part of the funds for the purchase of ampicillin). In settlement of all such damage claims against it, Beecham has agreed to pay to the Treasurer of the United States the sum of \$1 million within 60 days of the entry of the proposed judgment.

G. SECTION XVII: BEECHAM'S FURTHER PARTICIPATION IN DISCOVERY AND TRIAL

Beecham and the United States have entered into an agreement (attached as exhibit A to the proposed Final Judgment and made a part thereof) providing for further discovery from Beecham, so long as the United States action continues against Bristol, and for Beecham's participation in any trial of that action.

H. OTHER PROVISIONS

Section IX provides a mechanism by which application may be made to the Court, in the absence of agreement by the parties, for a determination of a reasonable royalty rate to be charged for the patents and related know-how to be licensed pursuant to the proposed judgment, and for a determination of reasonable terms and conditions thereof. Additional provisions of the proposed judgment are that Beecham must publish notice of the availability of semisynthetic penicillin patent and know-how licenses in two trade journals and in the Official Gazette of the U.S. Patent and Trademark Office; that Beecham is prohibited from making any sale or other disposition of the patents, trademarks, or know-how to be licensed under the proposed judgment unless the purchaser assumes the obligations of the judgment with respect thereto; and that Beecham may not condition the granting of any license required of it upon the grant or acceptance by the applicant of a license under any other United States or foreign patent or of any other know-how. This latter provision is intended to prevent any possible "funneling effect" by which

Beecham could, if permitted to require cross-licensing, end up being the only one having a license from everyone in the industry under all semisynthetic penicillin patents.

The combined effect of all of these provisions is to give any applicant access to the patents, know-how, and technical information necessary to manufacture and sell existing semisynthetic penicillins.

IV. REMEDIES AVAILABLE TO PRIVATE PLAINTIFFS

Any potential or actual private plaintiffs who have or might have been damaged by the alleged violations (including those plaintiffs who have already filed similar actions) will retain the same right to sue for monetary damages, and any other legal or equitable relief to which they would have been entitled, as if the proposed judgment were not entered. This judgment may not be used as a *prima facie* evidence in private litigation, however, pursuant to section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and Beecham, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time before the Court finds that entry of the judgment is in the public interest. Under the proposed judgment, the Court would retain jurisdiction of this action in order, among other things, to permit any necessary or appropriate modification of the judgment or construction of its provisions, to enforce compliance with the judgment, and to punish any judgment violation.

As provided by the Antitrust Procedures and Penalties Act, any person wishing to do so may, during the 60-day period prior to the effective date of the proposed judgment, submit written comments on the judgment to the U.S. Department of Justice, Robert V. Allen, Chief, Intellectual Property Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the FEDERAL REGISTER such comments and the Department's response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

VI. DETERMINATIVE DOCUMENTS

There are no materials or documents which the Government considered determinative in formulating the proposal for a consent judgment. Therefore, the United States is submitting none with this competitive impact statement, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

VII. DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSED JUDGMENT ACTUALLY CONSIDERED BY THE UNITED STATES

As noted above (Part III(A), pp. 8-10), the proposed judgment does not provide for all the specific relief that the complaint seeks from Beecham, because Bristol is not also a party to this judgment, and because Beecham has given up certain patent and other rights to Bristol. Otherwise, the proposed judgment does provide for substantially all such relief, except (1) cancellation of Bee-

cham's ampicillin patent, and (2) declarations of invalidity of that patent and Bristol's ampicillin trihydrate patent.

In addition, the proposed judgment provides for the following relief that was not specifically requested in the complaint: (1) granting, essentially without charge, covenants not to sue for any past, present, or future infringement of any U.S. patent (including certain unchallenged, related semisynthetic penicillin patents—such as the process patents referred to above (see note 5, p. 14, *supra*)) when practiced in connection with making, using, or selling ampicillin in any form; and (2) assignment (or authorizing the use), without charge, of certain trademarks registered in the United States by Beecham, but used only by others in connection with the sale of semisynthetic penicillins that Beecham supplied to them.

A full trial on the merits against Beecham was considered as an alternative to settlement, in connection with certain relief (discussed below) that was sought by the Government during negotiations but was not agreed to by Beecham. However, the alternative of a trial on the merits against Beecham was rejected because: (1) the relief in the proposed judgment would be substantially equivalent to that sought in the complaint from Beecham (except that which would result in the breach of any challenged agreement between Beecham and Bristol), (2) such relief would become effective upon entry of the judgment, (3) there are considerable risks and there would be additional costs (in money, manpower, and other resources) in litigating against Beecham as well as Bristol, and (4) appeals following trial could delay obtaining even the limited relief provided for by the proposed settlement for several years (assuming the outcome was ultimately favorable to the Government). In addition to considering provisions substantially similar to those contained in the proposed judgment, the Government actually considered, and then rejected for the additional reasons indicated below, the following specific alternative proposals.

A. THE AMPICILLIN PATENT ITSELF

The nature of the relief concerning the challenged ampicillin patent was an important issue during negotiations. As noted above (note 1, p. 1, *supra*), the ampicillin patent has already expired; therefore, the proposed judgment requires Beecham to grant, free of charge, only covenants not to sue (which Beecham retained the right to do under the 1959 agreement) for any infringement of the ampicillin patent that may have occurred before that patent expired. No other relief (such as compulsory licensing) is necessary since that patent can no longer be enforced by Beecham or Bristol to prevent anyone from entering the ampicillin market.

There are several alternatives to this relief—(1) collection of so-called reasonable royalties for any past infringement of the ampicillin patent, (2) dedication of that patent to the public, or (3) a full trial on the merits for cancellation and/or declaration of invalidity of that patent. The first alternative was rejected because permitting Beecham to negotiate reasonable royalties for past infringement of the ampicillin patent would allow it to profit from a patent which the United States has asserted was invalid and fraudulently or inequitably procured. As for the second alternative, the proposed

relief is the practical and economic equivalent of dedication of the ampicillin patent. Such relief does not allow Beecham to profit further from that patent by suing or collecting royalties for any past infringement of it, and dedication of an expired patent is simply unnecessary. Finally, as for cancellation and a declaration of invalidity of the ampicillin patent, those matters will be pursued in this litigation against Bristol, the exclusive licensee under that patent.

B. RELATED PATENTS PRACTICED IN CONNECTION WITH AMPICILLIN

As also noted above, the proposed relief (i.e., covenants not to sue for infringement) extends to any other U.S. patent—including Beecham's related semisynthetic penicillin patents (none of which have been challenged in this case as either invalid or fraudulently or inequitably procured)—that an applicant may wish to practice in connection with making, using, or selling ampicillin; such relief also extends to present and future (as well as past) infringement of such related patents.⁸ The proposed judgment allows Beecham to charge for such a covenant an amount not to exceed that which it is legally obligated to pay and in fact pays anyone, other than Bristol, by reason of having granted such covenant.

There are two alternatives to this upper limit on the amount charged for these related patents when practiced in connection with ampicillin—no charge at all for covenants not to sue on them (i.e., royalty-free licensing), or else so-called reasonable-royalty licensing without any specified upper limit. Requiring Beecham to give covenants not to sue free of any charge at all (or to give royalty-free licenses) under unchallenged, related patents, on which Beecham may be liable to a third party for a royalty, would penalize it in direct proportion to its sublicensee's sales of ampicillin. On the other hand, permitting Beecham to negotiate a so-called reasonable royalty at rates in excess of that owed to a third party, for a license under such patents when practiced in connection with ampicillin, would still allow Beecham to profit from a sublicensee's sales of ampicillin on which Beecham and Bristol allegedly procured a patent by fraud. An upper limit—on the amount to be charged for a covenant not to sue—of the royalty or fee, if any, that Beecham would owe to a third party (as provided for in the proposed judgment) would prevent Beecham from profiting further from the alleged conspiracy in connection with sales of ampicillin; at the same time, it would avoid an undue penalty having potentially undesirable effects on competition.

⁸As in the case of the ampicillin patent itself, the proposed judgment does not require that Beecham grant such covenants to Bristol; thus, it leaves Beecham free to pursue, against its co-defendant and alleged co-conspirator, whatever claim Beecham may have for royalties accruing on Bristol's sales of ampicillin under certain patents covered by the 1959 agreement. The proposed judgment does so primarily because Bristol collects royalties from Beecham under Bristol's ampicillin trihydrate patent (which the United States has also asserted is invalid), and presumably will continue to do so as long as this action is pending against Bristol (or until that patent expires).

C. COMPULSORY LICENSING OF PATENTS RELATING TO CERTAIN OTHER SEMISYNTHETIC PENICILLINS

The scope of the compulsory patent licensing relief was a substantial issue during negotiations. Originally, the government considered a provision that would have required licensing of all U.S. patents (besides those covered by a Beecham-Bristol agreement) that are owned by (or assigned or licensed to) Beecham as of the date of the judgment and that relate to semisynthetic penicillins. Beecham's counsel argued that (besides patents covered by such agreements) the patents subject to compulsory licensing under the judgment should include only those that relate to semisynthetic penicillins on which all research and development work had been completed as of some date certain. Otherwise, counsel said, compulsory licensing of existing, unlicensed patents relating only to developmental products may tend to discourage Beecham from initiating or completing their development. As a result, such products might never be developed by anyone, with potentially undesirable effects. A compromise was reached, establishing a cut-off for the additional patents to be included under the judgment (as those owned by or assigned or licensed to Beecham as of September 26, 1978, the date Beecham signed the stipulation—see Part V, p. 22),⁹ and excluding three of Beecham's semisynthetic penicillin patents from the definition of "semisynthetic penicillin patent" in section II (but only so long as such patents are not assigned or licensed by Beecham to Bristol during a 10-year period). According to Beecham's counsel, these patents all relate to semisynthetic penicillins (ticarcillin and carfecillin) that are merely developmental products and have not yet been sold in the United States.

D. COMPULSORY LICENSING OF SO-CALLED "FUTURE" SEMISYNTHETIC PENICILLIN PATENTS

Similarly, the Government also considered, in connection with the scope of the patent relief, compulsory licensing of so-called "future" patents—i.e., those patents, relating to semisynthetic penicillins, that may issue on applications pending as of the date of the proposed judgment. However, the government subsequently rejected that alternative. It did so primarily because: (1) the effects of the alleged combination and conspiracy should be completely dissipated within the time that the semisynthetic penicillin patents to be licensed under the proposed judgment expire; and (2) as noted above, requiring Beecham to license such "future" patents may tend to discourage or reduce Beecham's research and development efforts in those semisynthetic penicillins covered by such patents, with potentially undesirable effects. Together the foregoing factors appear to outweigh the possible benefits to the public in this case of including "future" semisynthetic penicillins in the obligation to license.

E. COMPULSORY LICENSING OF THE AMOXICILLIN PATENTS

1. The alternative proposals considered

⁹Initially, Beecham signed the stipulation on September 26, 1978. Because of subsequent changes in sections XVI and XVIII of the proposed Final Judgment, however, Beecham reexecuted the stipulation on October 20, 1978. Nevertheless, the previous date of September 26 was retained in the proposed judgment.

The nature of the relief concerning amoxicillin was also a substantial issue during negotiations. Amoxicillin is potentially an eventual replacement for ampicillin because: (1) it has almost the same chemical structure as ampicillin;¹⁰ (2) it is, like ampicillin, a broad-spectrum penicillin; and (3) it has virtually the same therapeutic activity as ampicillin (as well as alleged higher blood levels).

Originally, the government considered a provision requiring Beecham to license its amoxicillin patents at a reasonable royalty rate. Subsequently, the government considered, as an alternative to licensing by Beecham, a provision that was designed to prevent a so-called "sweetheart" deal between Beecham and Bristol in which they would settle their dispute over the ownership of the amoxicillin patents without ever resolving the question of whether those patents are licensed to Bristol under the defendants' 1959 agreement (see note 8, p. 14, *supra*). That provision would have, in effect, required Beecham to treat all alleged infringers (or potential infringers) of the amoxicillin patents alike. For example, if Beecham gave Bristol a nonexclusive license under those patents in exchange for Bristol's giving up its claim to them (or if Beecham did so in settlement of its lawsuit against Bristol alleging infringement of those patents), then Beecham would have had to license everyone else (including all other infringement defendants in the Amoxicillin Patent and Antitrust Litigation).

Beecham's counsel objected to this provision. They pointed out that Beecham would not agree to compulsory licensing of the amoxicillin patents under the proposed judgment. Thus, they argued, requiring Beecham to license everyone under such patents anyway, if it licensed Bristol under them, was tantamount to preventing Beecham from settling its dispute and lawsuit with Bristol (which seems unlikely to get out of the amoxicillin business voluntarily).

Partly on the basis of this reasoning, the government ultimately determined that such a "no-sweetheart-deal" provision (which would impose economic sanctions on Beecham for settling its amoxicillin-patent infringement suit against Bristol by way of a license) might be inappropriate in certain circumstances. For example, it might be inappropriate where Beecham unilaterally decided whether to license or sue (or whether to settle a suit already brought against) other alleged infringers.¹¹ Nevertheless, the

¹⁰Ampicillin is the generic name for the chemical D-(-)-alpha-aminobenzylpenicillin. Amoxicillin is the generic name for D-(-)-alpha-amino-para-hydroxybenzylpenicillin. Amoxicillin differs in chemical structure from ampicillin only in having a single hydroxy group ("OH") in the "para" position on the phenyl group of its molecule (as represented by the underlined portion of the name), which hydroxy group is not present anywhere in the ampicillin molecule.

¹¹However, in certain other circumstances such a provision would be unnecessary anyway: If there is a "sweetheart" deal between Beecham and Bristol, and if Bristol gives up its claim to the amoxicillin patents in exchange for Beecham's agreeing not to license, or as part of an understanding that Beecham will not license (in settlement of a lawsuit or otherwise), any other infringer of such patents except Bristol, the government could then bring a subsequent suit against Beecham and Bristol for any antitrust viola-

Footnotes continued on next page

United States is concerned about the competitive consequences of Beecham's possibly settling only its lawsuit against Bristol, with the result that Bristol would remain in the amoxicillin market while other competitors of Beecham and Bristol (particularly those without Bristol's financial resources for defending a patent infringement and antitrust suit or for paying the price of settling one) may be ultimately forced from that market. Such a result could have at least the appearance and effect of continuing the same "shared" monopoly (or "shared" exclusivity) between Beecham and Bristol on amoxicillin that previously existed (and to some extent at least still exists) on ampicillin, an arrangement that largely prompted this lawsuit in the first place.

2. REASONS FOR REJECTING THE ALTERNATIVE (OF A TRIAL) TO SETTLEMENT WITHOUT COMPULSORY LICENSING

Obtaining compulsory licensing of the amoxicillin patents (whether or not conditioned on Beecham's licensing Bristol) would have required at least a full trial against Beecham in this case. In addition to the reasons cited above (p. 24, *supra*), the government took into account the following factors in rejecting the alternative of a trial against Beecham and in concluding that the additional amoxicillin relief that might be obtained at trial is, perhaps, unnecessary, but in any event, just not worth the risks involved.

a. Even if, after a full trial on the merits in this case, the government were successful on a number of its major allegations (e.g., patent fraud and invalidity and contracts in unreasonable restraint of trade), it might still not be entitled to any relief directed to amoxicillin. Beecham claims that the amoxicillin patents are not the subject of any patent license or other agreement with its alleged co-conspirator, Bristol, and have not been licensed to anyone else. The validity of those patents is not specifically challenged in the complaint in this case. And the patents themselves are neither covered by the explicit terms of the complaint nor referred to in the complaints of any other party to the Ampicillin Antitrust Litigation. Indeed, the second (reissued) amoxicillin patent, the one claiming the amoxicillin compound specifically, did not issue originally until more than two years after the complaint was filed, and amoxicillin itself was not sold by anyone in the United States until nearly four years thereafter. It seems likely, therefore, that in order for the United States to seek cancellation of these patents, or otherwise to attack their validity, it would require (1) an investigation by the government, and (2) either amending the complaint in this case or bringing a new case. In any event, whether compulsory licensing of the amoxicillin patents would be part of the relief that might be obtained at trial of this case against Beecham would probably depend upon success in proving the combination and conspiracy allegations with respect to semisynthetic penicillins other than ampicillin.

b. There is some question about the scope of the coverage of the amoxicillin patents, and it may be that amoxicillin in some forms would not infringe the claims of those patents. There are two U.S. patents relating

to amoxicillin. One is U.S. Pat. No. 3,192,198, which issued on June 29, 1965, and will expire on June 28, 1982. There may be an argument that this patent claims only a mixture containing amoxicillin,¹² and that therefore amoxicillin by itself would not infringe the claims of that patent. The other patent relating to amoxicillin is U.S. Pat. No. 3,674,776, which issued on July 4, 1972. It claimed amoxicillin specifically, and further claimed (1) both crystalline and amorphous (or noncrystalline) forms of amoxicillin, and (2) both anhydrous (free of water) and hydrated (combined with water) forms of it. However, on March 23, 1976, the second patent reissued as and was replaced by Reissue Pat. No. 28,744, with substantially narrower claims than those of the patent it replaced. The reissue patent claims only the crystalline and trihydrate forms of amoxicillin. Thus, the narrower claims of the reissue patent might be avoided by making and selling amoxicillin in either the amorphous (i.e., noncrystalline) or anhydrous forms.

c. As noted elsewhere (see note 6, p. 14, *supra*), the patents relating to amoxicillin have been alleged to be invalid. In addition, several firms—Bristol (under color of its claimed right), Biocraft, A. H. Robbins, and Parke-Davis, Squibb, and Wyeth Division of AMHO (all sublicensees of Bristol under the ampicillin and other semisynthetic penicillin patents)—are now selling amoxicillin in the United States, without an express, uncontested license from Beecham under the patents covering it. (Except for Wyeth, Beecham has sued all of them for infringement of those patents.) Therefore, if the Government were to litigate this case primarily over compulsory licensing of the two amoxicillin patents, the benefits of the additional amoxicillin relief that might be obtained at trial could turn out to be illusory. Everyone may end up challenging these patents anyway (as Bristol and other are now doing), or simply ignoring them, even if infringed, because of the alleged infirmities in them. Accordingly, the Government concluded that it might just be wasting its time in litigating this case against Beecham in the hope of obtaining some additional relief concerning those patents.

d. Even if the United States were successful in challenging and securing invalidation, or in securing compulsory licensing, of the amoxicillin patents in potentially further protracted, complicated, and costly litigation against Beecham, that too might end up being wholly unnecessary. If it turns out that Bristol is right about having acquired (under its 1959 agreement with Beecham) the exclusive rights to the amoxicillin patents (see note 6, p. 14, *supra*), then those patents would be covered by the proposed judgment anyway since it expressly requires Beecham to grant covenants not to sue for infringement of any of the patents covered

¹²U.S. Patent No. 3,192,198 claims, among other things, the compound alpha-amino-para-hydroxybenzylpenicillin. That compound exists in two optically active isomeric forms—designated the D- and L- forms. Amoxicillin is the D- form of the compound. Thus, when reference is made to the compound (alpha-amino-para-hydroxybenzylpenicillin) generally, without indicating which of the isomeric forms of it is intended, it may be argued (on the basis of positions taken by defendants in this lawsuit) that reference is being made to a mixture of the D- and L- forms.

by that agreement free of charge. (Those patents would also clearly be within the subject matter of this lawsuit against Bristol and be subject to the same relief, if any is ultimately obtained, as would the other patents covered by the 1959 agreement.) In that event, moreover, it is doubtful that the amoxicillin patents could be enforced against anyone, because Bristol (which would then have the right to sublicense or enforce those patents) contends that they are both invalid and otherwise unenforceable (see Bristol's Answer and Counterclaims, *In re Amoxicillin Patent and Antitrust Litigation*), and, as noted, Beecham has agreed not to enforce any patent covered by the 1959 agreement (see part III(D)(3), p. 15, *supra*).

e. The claim that higher blood levels are achieved with amoxicillin than with ampicillin means that, to achieve substantially the same therapeutic effect, more ampicillin must be given than would be required of amoxicillin. But since both are nontoxic (so that the dosage level of either could be increased without harmful effect), and since ampicillin is now considerably cheaper than amoxicillin (as well as a virtual substitute for it), there may be little, if any, economic or therapeutic benefit from this alleged superiority. Thus, aside from any potential market factors that it may not now be possible to evaluate, ampicillin may be expected to offer considerable price competition for amoxicillin in a competitive market, and compulsory licensing of the amoxicillin patents may, therefore, not be necessary.

F. LICENSING OF OTHER KNOW-HOW

Section VII of the proposed judgment provides for licensing technical data and know-how relating only to semisynthetic penicillins. The United States also considered compulsory licensing of all technology and know-how relating to penicillin fermentation and the manufacture of 6-APA. The proposed judgment provides for a more limited disclosure because the entire range of technology applicable to penicillin fermentation and the manufacture of 6-APA is not essential to practice the inventions claimed in the semisynthetic penicillin patents to be licensed pursuant to the proposed judgment or to support the relief requested in the complaint. Nevertheless, certain patents relating to 6-APA are subject to compulsory licensing under the proposed judgment, and Beecham must sell 6-APA in bulk form whenever there is a temporary shortage of it.

G. INJUNCTIVE RELIEF

1. The scope of such relief

The injunctions of section IV apply only when the prohibited restrictions have been or would be imposed by Beecham on a third party. The government considered, but subsequently rejected, provisions that would have enjoined Beecham from maintaining or entering into agreements in which the same restrictions are imposed by a third party on Beecham (such as its 1959 and 1967 agreements with Bristol). Such provisions were rejected in order to avoid making Beecham vulnerable to breach of contract claims by the other parties to existing such agreements. Moreover, while Beecham has agreed to unilateral removal of prohibited restrictions imposed by it, obtaining removal of a prohibited restriction imposed on it (thereby possibly expanding its own rights

Footnotes continued from last page
tion arising out of such an agreement or understanding.

under an agreement with a third party may, according to Beecham's counsel, require Beecham to renegotiate such agreement or to give up some additional consideration in exchange for the expanded rights.

Nevertheless, the United States believes the law is clear that it is a violation of the antitrust laws to accede to an unlawful restraint of trade, just as it is to impose one. Accordingly, a compromise was reached, and a provision was included in Paragraph XII(A)(1) which, the government believes, would adequately serve the public interest in this case. That provision gives the government access to all of Beecham's prescription-drug licenses, regardless of whether restrictions are imposed on or by Beecham. Thus, the government will be in a position to deal with either situation.

2. Ratio of bulk to dosage form royalty rates.

The government considered a provision that would have prohibited Beecham from maintaining or entering into any prescription-drug license in which the ratio of the royalty on the sale of such a drug in bulk form to the royalty on such sale in dosage form exceeded a specific numerical limitation. This provision was intended to prevent a licensee from being charged a royalty on bulk-form sales that was so high in relation to the royalty on dosage-form sales as to constitute an economic restraint on sales in bulk form. However, the government rejected such a provision because it was determined that: (a) no single numerical ratio would be appropriate for all prescription drugs in all circumstances; and (b) the language of Paragraph IV(A)(3)—prohibiting "royalty or other fee provisions having the purpose or effect of restriction or limiting any other party" in any prohibited way—would adequately serve the same purpose as the alternative considered.

Dated: October 24, 1978.

THOMAS H. LIDDLE,

ROBERT S. SCHWARTZ,

LEE J. KELLER,

Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202-376-8603.

ROBERT V. ALLEN,

Chief, Intellectual Property Section, Antitrust Division, U.S. Department of Justice.

[FR Doc. 78-31173 Filed 11-2-78; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

FINAL FISCAL YEAR 1979 GUIDE FOR DISCRETIONARY GRANT PROGRAMS

Response to Public Comment and Notice of Issuance

AGENCY: Law Enforcement Assistance Administration, Justice.

ACTION: Response to public comment and notice of issuance.

SUMMARY: The Law Enforcement Assistance Administration (LEAA) published in the FEDERAL REGISTER on July 27, 1978, (43 FR 32612-32707) the DRAFT 1979 Guide for Discretionary Grant Programs for public review and comment. This notice summarizes the comments received and LEAA's re-

sponse and indicates the issuance, distribution, and availability of the final 1979 Guide for Discretionary Grant Programs.

FOR FURTHER INFORMATION, CONTACT:

David L. Dougherty, Office of Planning and Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3930.

A. ISSUANCE AND DISTRIBUTION

The Guide for Discretionary Grant Programs provides information about major categorical programs of the Law Enforcement Assistance Administration, authorized by the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The Guide includes information about discretionary grant programs, selected program field tests, technical assistance, and training. Information about how to apply for assistance and who to contact for additional information is also provided.

The fiscal year 1979 guide was signed and issued by the Acting Administrator of LEAA on September 30, 1978.

Single copies of the guide may be obtained at no cost from: National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850.

Copies of the guide have been sent to the following organizations: Twenty-five copies to each State Law Enforcement and Criminal Justice Planning Agency (SPA), ten copies to each Criminal Justice Coordinating Council (CJCC) and Regional Planning Unit (RPU), and one copy to each of 184 national organizations with an interest in criminal justice and law enforcement.

Also, one copy each to mayors of large cities, county executives and council chairmen of large counties, coordinators of Federal-State relations, and directors of State offices of community affairs.

Also, one copy each to police departments serving jurisdictions of 25,000 population and over, State police directors, sheriffs, district attorneys, State chief justices, court administrators, public defenders, State correctional agencies, and directors of correctional institutions.

B. NATURE OF COMMENTS AND LEAA'S RESPONSE

LEAA received comments about 7 specific programs and 13 general issues. The comments and LEAA's response are summarized below. A list of the names of the individuals and organizations that commented follows the

summaries of the comments. A copy of the final guideline manual has been sent to each individual and organization that submitted comments.

1. *Community anti-crime program.* Four comments were received about the community anti-crime program. The comments primarily concerned (a) subobjectives of the program; (b) types of activities expected to be conducted by grantees; (c) criteria for selection of grantees; and (d) roles of State Law Enforcement and Criminal Justice Planning Agencies (SPA's) in reviewing applications. Modifications were made revising subobjectives and types of activities to be conducted. Other suggested revisions regarding subobjectives, types of activities, and criteria for selection were not made in the guideline manual but will be considered in the implementation and management of the program. The role of SPA's in application review has been considered on several occasions since the beginning of the community anti-crime program; no new information was offered by the comments which would lead to revisions at this time.

2. *Comprehensive crime prevention program.* One comment was received suggesting that the urban emphasis of the program eliminated from consideration projects in rural areas bordering metropolitan areas and projects in recreational locations. The population related eligibility requirements of the program have been made clearer to eliminate the impression that only large urban areas are eligible; a minimum population requirement is retained.

3. *Family violence program.* Four comments about this program were received. Comments addressed, primarily, the size of grants to be awarded, eligibility requirements, and criteria for selection. Revisions were made to the program description modifying some of the eligibility requirements and criteria for selection. The other suggestions about requirements and criteria and about size of grants were carefully considered but program experience and budget limitations did not permit revisions at this time. All comments will be considered further as the program is further developed.

4. *Fundamental court improvement.* LEAA received one comment about this program recommending that eligibility be extended to include local court jurisdictions over 200,000. After careful consideration, that suggestion was not adopted; such a change would redirect the program from a few major statewide reforms to possibly many reforms of lesser impact.

5. *Corrections programs.* One comment was received about corrections programs generally, recommending that the intent and assumptions

behind the corrections programs should be re-examined. LEAA is considering the assumptions and intent of corrections programs and will continue to do so in a variety of ways. While, at this time, revision of the corrections program descriptions for 1979 is not feasible, further activity and policy development in corrections will be reflected in program implementation and management and in future program development.

6. *Inmate legal services.* Four comments on inmate legal services were received, all suggesting that additional funding be made available for that program. Budgetary restrictions and progress to date in program development, testing, and evaluation do not permit increased funding at this time although LEAA will consider these comments further as those circumstances change.

7. *Indian criminal justice programs.* Two comments were received about the Indian criminal justice program suggesting an expansion of the types of grants to be awarded. Revisions were not made due to budgetary restrictions and the development of a new policy regarding LEAA supported Indian programs.

8. Three letters were received which were not specific to individual programs in the draft guideline manual but suggested program development and research opportunities regarding (a) the role of family violence in juvenile delinquency; (b) emphasis on misdemeanor courts; (c) the impact of alcohol abuse on the criminal justice system; and (d) victimization of the elderly and the response of the criminal justice system to that victimization. No modifications were made to the guideline manual in response to these comments; the comments were referred to LEAA program and research offices for consideration in future research and program development.

9. Ten general issues of a management or administrative nature were raised by one organization. In addition, 32 suggestions or comments specific to individual program descriptions and requirements that had been raised by members of the organization were forwarded to LEAA.

Modifications or clarifications were made in response to the specific suggestions and comments where feasible. Revisions were not made to the guideline manual at this time in response to all of the general issues but all will be considered by LEAA in future program development and revisions. The general issues concerned:

- a. Deadlines for submitting applications;
- b. Match provision;
- c. Period of LEAA support of projects;
- d. Total funding for programs;

- e. Unannounced or unsolicited grant opportunities;
- f. Project periods;
- g. Information provided in program descriptions;
- h. State Planning Agency administration of projects;
- i. Responsibilities of LEAA and State Planning Agencies for project monitoring; and
- j. Program evaluation.

C. Individuals and groups that commented:

1. Irvin S. Balls, Esq., Pennsylvania.
2. Curtis Bridges, Colorado.
3. Constance R. Caplan, Maryland.
4. Peg Collins, Vermont.
5. Hon. John Conyers, Jr., Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives.
6. S. Bobo Dean, Washington, D.C.
7. Valerie Emerson, Virginia.
8. Fred Farber, Esq., Pennsylvania.
9. Paul H. Glasser, Texas.
10. Rev. Joseph M. Kakalec, S. J., Pennsylvania.
11. Richard A. Katz, Esq., Pennsylvania.
12. Dennis L. Metrick, Ph. D., Pennsylvania.
13. Herbert S. Patchell, Massachusetts.
14. F. Charles Petrillo, Esq., Pennsylvania.
15. Gary J. Scrimgeour, Ph. D., Indiana.
16. Tom "Bearhead" Swaney, Montana.
17. National Association of Counties.
18. National Conference of State Criminal Justice Planning Administrators.

JAMES M. H. GREGG,
Assistant Administrator,
Office of Planning and Management.
[FR Doc. 78-31107 Filed 11-2-78; 8:45 am]

[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Meeting

The BRAC Committee on Manpower and Employment will meet on Tuesday, November 21, 1978, at 9:30 a.m. in Room 4454 A & B of the General Accounting Office Building, 441 G Street NW., Washington, D.C. The agenda for the meeting is as follows:

1. Review of major recommendations contained in staff report drafted for the National Commission on Employment and Unemployment Statistics.
2. Other business.

This meeting is open to the public. It is suggested that persons planning to

attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202-523-1559.

Signed at Washington, D.C., this 27th day of October 1978.

JANET L. NORWOOD,
Acting Commissioner of
Labor Statistics.

[FR Doc. 78-31148 Filed 11-2-78; 8:45 am]

[4510-30-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area

in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 27th day of October, 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 27, 1978

Name of Applicant and Location of Enterprise and Principal Product or Activity
Bradley Construction Corp., Freehold, N.J.—Indoor recreational and sports complex.

Bodolay Packaging Machinery Inc., Lakeland, Fla.—Production of packaging machinery.

Walters and Lyon, Salyersville, KY.—Shopping center complex.

Walters and Lyon, Paintsville, KY.—Shopping center complex.

[FR Doc. 78-31002 Filed 11-2-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-110-C]

M & M COAL CO.

Petition for Modification of Application of
Mandatory Safety Standard

M & M Coal Co., Drawer P, Northfork, W. Va., 24868, has filed a petition to modify application of 30 CFR 75.1710 (canopies) to its Mine No. 2B in McDowell County, W. Va. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition is as follows:

(1) The petition pertains to the use of canopies on the following face

equipment: three Model 84 S&S scoops, and one Model 74 S&S scoop.

(2) The average height of the coal seam is 38 inches in the locations where miners use equipment subject to cab and canopy regulation.

(3) The face areas have no adverse roof conditions nor any history of roof falls. A full roof bolting plan is used in the mine.

(4) Because of a near-fatal accident, involving a canopy hitting the roof of the mine, the West Virginia Bureau of Mines has instructed the petitioner to remove the canopies, that had been installed on the scoops.

(5) The battery-powered scoops are recharged outside the mine presently. Scoop canopies and roof clearances would necessitate maintaining the battery charging stations in "holes" blasted near the face area. This type of operation would create additional safety problems related to potential roof falls and to electrical and toxic fume problems.

(6) For these reasons, the petitioner states that application of the standard to the mine will lessen the safety of the miners in the mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 4, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 25, 1978.

E. MUESSIG,
Deputy Assistant Secretary
for Mine Safety and Health.

[FR Doc 78-31147 Filed 11-2-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-44-M]

UNITED STATES STEEL CORP.

Petition for Modification of Application of
Mandatory Safety Standard

The United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230, has filed a petition to modify application of 30 CFR 55.12-16 (power switches) to its Rockland Mine in Ft. Meade, Fla., and its Bartow Mine, in Bartow, Fla. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition is as follows:

(1) The standard states in part that a warning notice signed by the individuals working on electrically powered equipment must be posted at the power switch of that equipment.

(2) As an alternative, the petitioner outlines procedures for the following method:

(a) The petitioner will assign numbered locks to employees.

(b) Employees will place their own numbered lock on the power switch of equipment they are working on.

(c) An authorized employee will place an operation lock on the power switch.

(3) The petitioner states that the alternative method will not lessen protection for the employees.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before December 4, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 25, 1978.

E. MUESSIG,
Acting Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-31146 Filed 11-2-78; 8:45 am]

[4510-27-M]

Office of the Assistant Secretary for
Employment Standards

[Employment Standards Order No. 78-1]

REDELEGATION OF AUTHORITY AND REASSIGNMENT OF RESPONSIBILITY

Assistant Secretary for Employment Standards

1. *Purpose.* This order redelegates authority and reassigns responsibility (a) within the Office of the Assistant Secretary; and (b) the Wage-Hour Administrator; (c) the Director of the Office of Workers Compensation Programs; (d) the Director of the Office of Federal Contract Compliance Programs.

2. *Background.* A Secretary's Orders No. 18-75 (FR 55913) and 23-76 delegated authority and assigned responsibility for certain functions to the Assistant Secretary for Employment Standards with the authority to redelegate. Department of Labor Manual, series two, chapter 800, designates the Assistant Secretary for Employment Standards as a contracting officer and assigns him/her with certain procurement responsibilities.

B. Secretary's Order No. 18-67, 32 FR 12979, formerly identified as General Order No. 46 (revised), delegated and assigned to the Director of the Bureau of Employees Compensation authority and responsibility for performance of the functions of the Secretary of Labor under the Federal Employees Compensation Act, 5 U.S.C.

8101 *et seq.*, as amended and extended (except 8149 as it applied to the Employees Compensation Appeals Board), and under the Longshoremen's and Harbor Workers Compensation Act, 33 U.S.C., 901 *et seq.*, as amended and extended, to be performed under the general direction and control of the Assistant Secretary for Labor-Management Relations. The overall responsibility for the authority delegated to the Director of the Bureau by Secretary's Order No. 18-67 was subsequently assigned successively to the Assistant Secretary for Wage and Labor Standards (see U.S. Government Organization Manual, 1970/1971, p. 320) and to the Assistant Secretary for Workplace Standards (Secretary's Order No. 19-70, 36 FR 304) without change in the operational responsibilities of the Bureau of Employees Compensation (Workplace Standards Administration, Description of Organization, 36 FR 307).

C. Secretary's Order 13-71, 36 FR 8755, established the Employment Standards Administration to perform the functions of the Department with respect to employment standards programs. The Assistant Secretary for Employment Standards was therein delegated the authority and assigned responsibility for carrying out such programs. That order further provided that the Employment Standards Administration was to be headed by a Deputy Assistant Secretary/Administrator who was to report to the Assistant Secretary for Employment Standards and was to act for the Assistant Secretary in his/her absence. Among the employment standards programs for which the responsibility was thus delegated were:

1. The Federal Employees Compensation Act, as amended and extended (5 U.S.C. 8101 *et seq.*, except 8149 as it applied to the Employees Compensation Appeals Board).

2. The Longshoremen's and Harbor Workers Compensation Act as amended and extended.

3. Part C of Title IV (Black Lung Benefits) of the Federal Coal Mine Health and Safety Act of 1969.

- D. Secretary's Order 15-71, 36 FR 8755, set forth in detail the redelegation of authority to the Deputy Assistant Secretary for Employment Standards Administration.

- E. Secretary Order 38-72, 38 FR 90, made provisions for the Benefits Review Board established by Pub. L. 92-576, 86 Stat. 1251, as a quasijudicial body of the first appeal under the Longshoremen's and Harbor Workers Compensation Act, as amended, 33 U.S.C. 901 *et seq.*; the Defense Base Act, 42 U.S.C. 1651 *et seq.*; the District of Columbia Workmen's Compensation Act, 36 D.C. Code 501 *et seq.*; the Outer Continental Shelf Lands Act, 43

U.S.C. 1331; the Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171 *et seq.*; and Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 *et seq.*

F. Secretary's Order 16-73, 38 FR 19130, delegated authority to the Assistant Secretary for Employment Standards for the performance of the functions assigned to the Secretary of Labor pursuant to Parts B and C of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, with the exception of the functions vested with the Benefits Review Board by Secretary's Order 38-72.

G. Employment Standards Order 2-74 redelegated to the Director, Office of Workers Compensation Programs, the authority and reassigned the responsibility vested in the Assistant Secretary for Employment Standards regarding workers compensation programs and the performance of functions assigned to the Assistant Secretary pursuant to Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended.

H. Secretary's Order dated September 23, 1974 (39 FR 34723) revoked Secretary's Order 18-67, and the last sentence of paragraph 3 of Secretary's Order 13-71.

I. Secretary's Order 16-75 (40 FR 55913) canceled and replaced Secretary's Order 13-71 and incorporated the delegation contained in the Secretary's Order 16-73 and canceled that Order.

J. Employment Standards Order 2-75 (40 FR 56743) updated and consolidated most of ESA's delegations into one document.

K. Employment Standards Order 2-76 added a delegation to the Director, Office of Information and replaced Employment Standards Order 2-75.

L. Secretary's Order 11-77 canceled paragraph 4a(12) and 4a(17) of Secretary's Order 16-75 (as pertains to the Women's Bureau).

M. This order updates Employment Standards Order 2-76.

3. *Redelegation of authority and reassignment of responsibility.* The authority and responsibility assigned by the Secretary of Labor to the Assistant Secretary for Employment Standards for carrying out Employment Standards programs and activities is redelegated and reassigned, except as hereinafter provided, as follows:

A. The Office of the Assistant Secretary of Employment Standards.

1. *The Deputy Assistant Secretary for Employment Standards* shall report to the Assistant Secretary and is hereby redelegated authority to act on all

matters within the Assistant Secretary's delegation.

2. *The Director of the Office of Program Development and Accountability* shall report to the Assistant Secretary and is responsible for all program development and accountability activities, including developing plans, policies, and procedures for the functions of the program planning, policy analysis, and review, budgeting and financial management, accountability review, legislative analysis, research, evaluation, allocation of resources, and information and analysis of State employment standards.

3. *The Director of the Office of Administrative Management* shall report to the Assistant Secretary and is responsible for all administrative and management activities, including developing plans, policies, and procedures, for the functions of employee development, personnel and employee management relations, employee safety and health, position management, manpower utilization, management information systems, and mobilization planning activities delegated to Employment Standards Administration in Secretary's Order 23-76, and general services such as procurement and supply management.

4. *The Director, Office of Information and Consumer Affairs* shall report to the Assistant Secretary and is responsible for developing, administering, and monitoring a comprehensive public information program designed to promote voluntary compliance with the laws and executive orders administered by ESA; for providing a central point at the National Office for dissemination of news and information concerning ESA activities, both internally and externally; and for advising ESA National and Regional executives on public affairs matters.

5. *The ESA Equal Opportunity Coordinator* shall report to the Assistant Secretary and is responsible for developing, administering, and monitoring the implementation of Equal Opportunity policies and procedures, coordinating and reviewing EEO plans and advising the Assistant Secretary and other ESA managers on ESA's EEO status and necessary corrective actions, where appropriate.

6. *Regional Administrators for Employment Standards* are responsible for administering the Assistant Secretary's responsibilities for all employment standards programs within their geographic jurisdiction. Regional Administrators report directly to the Assistant Secretary, represent the Assistant Secretary and serve as general managers of field operations within their jurisdiction. As regional general managers, Regional Administrators are responsible for regional policy development, program planning, admin-

istration and management, resource management, maintaining effective liaison with other DOL agencies and State/local government agencies and officials; conducting a regional accountability review program, providing administrative and management direction and supervision to Assistant Regional Administrators and providing direct program assistance on matters and issues as requested by the Assistant Secretary. Regional Administrators are responsible for carrying out within their region plans for administering the wage and salary stabilization and labor disputes program as delegated to them in Secretary's Order 23-76. Regional Administrators are contracting officers within their areas of assigned responsibility and are empowered to act under the Department of Labor Manual, series two, Part 814C(2) to enter into agreements with States to enhance Federal/State cooperative agreements for administering compatible employment standards programs.

7. The above redelegations made within the Office of the Assistant Secretary shall be carried out consistent with the redelegations made to the Wage-Hour Administrator; the Director, Office of Federal Contract Compliance Programs; the Director, Office of Workers Compensation Programs, and within the Office of the Assistant Secretary.

B. The Office of the Wage-Hour Administrator.

The Wage-Hour Administrator shall report to the Assistant Secretary and is hereby delegated authority, except as hereinafter provided, for carrying out the programs and activities delegated to the Assistant Secretary under:

a. Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.*, including the issuance of child labor hazardous occupation orders and other regulations concerning child labor standards.

b. The Walsh-Healey Public Contracts Act of 1936, as amended, 41 U.S.C. 35 *et seq.*

c. The Service Contract Act of 1965, as amended, 41 U.S.C. 351, *et seq.*

d. The Davis-Bacon Act, as amended, 40 U.S.C. 276a and any laws now existing, or subsequently enacted, providing for prevailing wage findings by the Secretary of Labor in accordance with or pursuant to the Davis-Bacon Act; the Copeland Act, 40 U.S.C. 276c, Reorganization Plan No. 14 of 1950; and the Tennessee Valley Authority Act, 16 U.S.C. 831;

e. The Contract Work Hours and Safety Act, as amended 40 U.S.C. 327 *et seq.*

f. Title III of the Consumer Credit Protection Act, 15 U.S.C. 1671 *et seq.*

g. The Arts and Humanities Act of 1965, 20 U.S.C. 953, except those provisions relating to safety and health delegated to the Assistant Secretary for Occupational Safety and Health;

h. The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621, *et seq.*, except those provisions relating to studies and research delegated to the Assistant Secretary for Employment and Training;

i. The Farm Labor Contractor Registration Act of 1963, as amended, 7 U.S.C. 2041 *et seq.*

j. Section 1450(i) of the Safe Drinking Water Act (Pub. L. 93-523), 42 U.S.C. 300 j-9(i);

k. Section 507 of the Federal Water Pollution Control Act (Pub. L. 87-88 as amended by 89-234), 33 U.S.C. 1367;

l. Such additional Federal Acts as may from time to time confer upon the Secretary of Labor duties and responsibilities similar to the Fair Labor Standards Act or the Davis-Bacon Act and Related Acts.

C. The Office of the Director of Workers Compensation Programs.

1. The Director of the Office of Workers Compensation Programs shall report to the Assistant Secretary and is hereby redelegated authority, except as hereinafter provided, for carrying out the programs and activities delegated to the Assistant Secretary under:

a. The Federal Employees Compensation Act, as amended and extended (5 U.S.C. 8101 *et seq.*), except 8149 as it applies to the Employees Compensation Appeals Board.

b. The Longshoremen's and Harbor Workers Compensation Act, as amended and extended, (33 U.S.C. 901, *et seq.*) except 33 U.S.C. 921(b) as it pertains to the Benefits Review Board.

c. Title IV, Section 415 and Part C of the Federal Mine Safety and Health Act of 1977, as amended, (30 U.S.C. 901, *et seq.*).

d. Department of Labor Manual, series two, chapter 800, to act as contracting officer with the area of his/her assigned responsibility and under Part 814c(1) to procure medical supplies under the Federal Mine Safety and Health Act of 1977 as amended.

D. The Office of the Director of Federal Contract Compliance Programs.

The Director of The Office of Federal Contract Compliance Programs shall report to the Assistant Secretary and is hereby delegated authority, except as hereinafter provided, for carrying out the programs and activities delegated to the Assistant Secretary under:

a. The Executive Order 11246, as amended—Federal Contract Compliance.

b. Section 503 of the Rehabilitation Act of 1973, as amended, and Executive Order 11758.

c. The affirmative action requirements under Title V of the Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended, 38 U.S.C. section 2012.

E. The redelegation of authority contained in paragraphs 3 (B) through (D) above are to be performed consistent with the redelegations made within the Office of the Assistant Secretary in paragraph 3(A) above, except that the quasijudicial line of adjudicatory authority and responsibility between the Director of the Office of Workers Compensation Programs and the Deputy Commissioners or their subordinates in the OWCP District Offices in individual case actions under the laws enumerated in 3(C)(1) (a) and (c), shall not be affected. In addition to the redelegation of authority contained in paragraphs 3 (B) through (D) above, the Wage-Hour Administrator, the Director of the Office of Workers Compensation Programs, and the Director of the Office of Federal Contract Compliance Programs are responsible for providing policy and technical guidance (including case processing) and supervision to the Assistant Regional Administrators related to program matters for their respective programs and for conducting and participation in National Office accountability reviews of regional program operations.

4. *Redelegation of authority.* The authority delegated and the responsibilities assigned by this order may be redelegated and reassigned.

5. *Reservation of authority.* The submission of reports and recommendations to the department concerning the administration of employment Standards programs shall be reserved to the Assistant Secretary for Employment Standards.

6. *Directives affected.* Employment Standards Order No. 2-76 is hereby canceled.

7. *Effective date.* This Order is effective immediately.

Signed at Washington, D.C., this 28th day of September 1978.

DONALD ELISBURG,
Assistant Secretary.

[FR Doc. 78-31180 Filed 11-2-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3116]

THE ANACONDA CO. RARITAN COPPER
WORKS, PERTH AMBOY, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 13, 1978, in response to a worker petition received on Janu-

ary 24, 1978, which was filed on behalf of workers and former workers engaged in the production of refined copper at the Anaconda Co., Raritan Copper Works, Perth Amboy, N.J.

The Notice of Investigation was published in the *FEDERAL REGISTER* on February 28, 1978 (43 FR 8207). No public hearing was requested and none was held.

The petitioning worker in this case is covered under certification TA-W-19 issued on June 27, 1975. Since the worker separated, totally or partially, from employment at the Anaconda Co., Raritan Copper Works, Perth Amboy, N.J., on or after December 27, 1974 (impact date) and before June 27, 1977 (expiration date of the certification) was covered by the previous certification, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 27th day of October 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc. 78-31149 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3853]

APEX DISTRIBUTING CO., NORTHEAST HOPKINS, MINN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3853: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 15, 1978 which was filed by the Amalgamated Meat Cutters and Butcher Workmen of North America on behalf of workers and former workers producing boneless beef at the Apex Distributing Co., N. E. Hopkins, Minn.

The Notice of Investigation was published in the *FEDERAL REGISTER* on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Apex Distributing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the

Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Apex Distributing Co. began operations in March 1977. Apex produces meat for manufacturing primarily for one customer. The customer increased purchases from Apex and at the same time increased purchases of imports from March 1978 through June 1978 when compared to the same period of the previous year.

CONCLUSION

After careful review, I determine that workers of the Apex Distributing Co., N. E. Hopkins, Minn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31150 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3572]

AUTO VILLAGE, INC., YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3572: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 4, 1978 in response to a worker petition received on April 27, 1978 which was filed on behalf of former workers engaged in the sales and servicing of automobiles at Auto Village, Inc., Youngstown, Ohio.

The Notice of Investigation was published in the *FEDERAL REGISTER* on May 23, 1978 (43 FR 22087). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Auto Village, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "arti-

cles" within the meaning of section 222(3) of the act.

Auto Village operated as an independently owned automobile dealership engaged in sales and servicing of new and used American executive passenger cars until it closed in February 1978. Auto Village was not a franchise dealer. It purchased new and used automobiles from franchise dealers, private owners and at auctions for resale to consumers.

The petition alleges that increased imports of automobiles adversely affected employment at Auto Village. However, Auto Village does not produce automobiles. Employees of Auto Village are engaged in the sale and servicing of new and used automobiles and do not produce an article within the meaning of section 222 (3) of the Trade Act of 1974.

CONCLUSION

After careful review, I determine that all workers of Auto Village Inc., Youngstown, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31151 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3574]

BROWN SHOE CO., CARUTHERSVILLE, MO.

Affirmative Determination Regarding Application for Reconsideration

On September 28, 1978, one of the petitioning workers of Brown Shoe Co., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the *FEDERAL REGISTER* on September 15, 1978 (43 FR 41308).

The petitioning worker raises one basic issue in the application; namely, that the appropriate subdivision should be redefined from the total plant at Caruthersville, Mo., to the cutting department at Caruthersville, Mo., which reportedly suffered a decline in work in 1978 because of company imports of unfinished shoes which did not require the cutting operations performed at Caruthersville, Mo., plant.

CONCLUSION

After review of the application, I conclude that this claim of the petitioning worker is of sufficient weight

to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 30th day of October, 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31152 Filed 11-2-78; 8:45 am]

[4510-30-M]

CERTIFICATION OF STATE UNEMPLOYMENT LAWS TO THE SECRETARY OF THE TREASURY

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending October 31, 1978.

Alabama	Missouri
Alaska	Montana
Arizona	Nebraska
Arkansas	Nevada
California	New Jersey
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
District of Columbia	North Dakota
Florida	Ohio
Georgia	Oklahoma
Hawaii	Oregon
Idaho	Pennsylvania
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming

The unemployment compensation law of the State of New Hampshire is not included in the foregoing list of certified State laws, because under section 3303(b) of the Internal Revenue Code of 1954 (26 U.S.C. 3303(b)) the unemployment compensation law of a State may not be certified pursuant to that section unless the State is certified pursuant to section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)). Because of my action today with respect to the certification of the State of New Hampshire pursuant to section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), the effect thereon of section 3310(d) of the Code, this document does not constitute at the present a withholding of certification for 1978 in the case of the unemployment compensation law of the State of New Hampshire.

Signed at Washington, D.C., this 31st day of October, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-31145 Filed 11-2-78; 8:45 am]

[4510-30-M]

CERTIFICATION OF STATES TO THE SECRETARY OF THE TREASURY

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending October 31, 1978, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act.

Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming

The State of New Hampshire is not included in the foregoing list of certified States, because of my findings made pursuant to section 3304(c) of the Internal Revenue Code of 1954, that the unemployment compensation law of the State of New Hampshire does not contain each of the provisions required of State unemployment compensation laws by section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)). This does not constitute a present withholding of the certification of the State of New Hampshire, however, solely because of the provisions of section 3310(d) of the Internal Revenue Code of 1954 (26 U.S.C. 3310(d)), pursuant to which a certification may not be withheld until 60 days after the Governor of the State is notified of my findings or until the State has filed a petition for review of such action, whichever is earlier. In addition, if a petition for review is filed by the State, my action is stayed for a period of 30 days there-

after, and the court may grant a further stay or other interim relief to preserve status or rights, pursuant to section 3310(d).

Signed at Washington, D.C. this 31st day of October, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-31144 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3522, et al.]

G&G FOOD CORP., INC., ET AL.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3522, 3525, and 3527: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978 which was filed on behalf of workers and former workers processing beef products at G&G Food Corp., Inc. (TA-W-3522), and Newark Boneless Meat Products, Inc., Newark, New Jersey (TA-W-3525), and Penn Meat Fabricators, Inc., Pittston, Pa. (TA-W-3527).

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789-18790). No public hearing was requested and none was held.

The determinations were based upon information obtained principally from officials of Newark Boneless Meat Products, Inc., and its subsidiary firms, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Meat Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met for workers of Newark Boneless Meat Products, Inc., and Penn Meat Fabricators, Inc., but that the following criterion has not been met for workers at G&G Food Corp.

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such decline in sales or production.

U.S. imports of meat for manufacturing (beef trimmings and ground beef) increased from 1,262 million pounds in 1976 to 1,269 million pounds

in 1977 and increased from 293 million pounds during January-March 1977 to 327 million pounds during January-March 1978. The ratio of imports to domestic production amounted to 24.0 percent in 1976 and 26.8 percent in 1977.

Newark Boneless Meat Products, Inc., operates a production facility and corporate headquarters in Newark, N.J. Two subsidiaries of the firm, G&G Food Corp., Inc., and Penn Meat Fabricators, Inc., operate production facilities in Newark, N.J., and Pittston, Pa., respectively.

The Newark, N.J., facility of G&G Food Corp., Inc., processes no beef trimmings. Although a substantial proportion of all beef processed by the facility was received from Newark Boneless Meat Products and Penn Meat Fabricators, the products it produced, for example corned beef, are subject to negligible import competition. Over the past several years, the ratio of imports of table beef and veal to domestic production has been well below 1 percent.

A survey conducted by the Department indicated that some customers surveyed who decreased purchases from Newark Boneless Meat Products, Inc., and Penn Meat Fabricators, Inc., increased purchases of imported beef trimmings and ground beef.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with beef trimmings processed by Newark Boneless Meat Products, Inc., Newark, N.J., and by Penn Meat Fabricators, Inc., Pittston, Pa., contributed importantly to the decline in sales and production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Newark Boneless Meat Products, Inc., Newark, N.J., and Penn Meat Fabricators Inc., Pittston, Pa., who became totally or partially separated from employment on or after March 17, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of G&G Food Corp., Inc., Newark, N.J., are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 26th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31153 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-2906]

M. HOFFMAN CO., INC., BOSTON, MASS.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on September 28, 1978, applicable to workers and former workers producing sailor pants and jeans at the Boston, Mass., plant of M. Hoffman Co., Inc. The Notice of Certification was published in the FEDERAL REGISTER on October 13, 1978 (43 FR 47306).

At the request of a petitioner, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that some layoffs of workers occurred in May 1977. These layoffs were not covered by the original impact date of December 2, 1977.

The intent of the certification is to cover all workers at the Boston, Mass., plant of M. Hoffman Co., Inc., who were affected by the decline in production of sailor pants and jeans related to import competition. The certification, therefore, is revised providing a new impact date of May 12, 1977.

The revised certification applicable to TA-W-2906 is hereby issued as follows:

All workers at the Boston, Mass., plant of M. Hoffman Co., Inc., who became totally or partially separated from employment on or after May 12, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31154 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3307]

IMPERIAL PANTS CO., BROOKLYN, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 7, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' tailored clothing at Imperial Pants Co., Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No

public hearing was requested and none was held.

On January 27, 1976, the Department issued a certification of eligibility to apply for adjustment assistance for all workers at the Brooklyn, N.Y., plant of the Imperial Pants Co. All workers separated from employment at Imperial Pants on or after October 14, 1974 (impact date) and before January 27, 1978 (expiration date of the certification) would have been covered under TA-W-286.

Since Imperial Pants Co. ceased operations in October 1977 during the existence of an active certification; a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 26th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

[FR Doc. 78-31155 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3450]

INTERLAKE, INC., CHICAGO, ILL.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3450: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing molten iron at the Chicago, Ill., plant of Interlake, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

On May 20, 1977, the Department denied the workers of Interlake's Chicago, Ill., plant eligibility to apply for adjustment assistance (TA-W-1477).

The determination was based upon information obtained principally from officials of Interlake, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act

must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers employed at Interlake's Chicago, Ill., plant increased in each quarter compared to the same quarter of the previous year during the period from January 1976 through June 1978. The average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separation to workers at the Chicago plant.

CONCLUSION

After careful review, I determine that all workers of the Chicago, Ill., plant of Interlake, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of October 1978.

JAMES F. TAYLOR,

Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31171 Filed 11-2-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Sub-

part B or 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of October 1978.

MARVIN M. FOOKS,

Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Asarco, Inc. (USWA)	Hayden, Ariz.	Oct. 19, 1978	Oct. 16, 1978	TA-W-4,289	Smelting of copper concentrates.
Dan River, Inc. (workers)	Clanton, Ala.	Oct. 17, 1978	Oct. 11, 1978	TA-W-4,290	Corduroy material.
Fairfield Mills of Connecticut, Inc. (workers)	Stamford, Conn.	Oct. 23, 1978	Oct. 19, 1978	TA-W-4,291	Men's and boys' sweaters.
Fitchburg Yarn Co. (ACTWU)	Fitchburg, Mass.	Oct. 24, 1978	Oct. 23, 1978	TA-W-4,292	Acrylic and other manmade fiber yarns.
Freeland Manufacturing Co. (ACTWU)	Freeland, Pa.	do	do	TA-W-4,293	Down jackets and jeans for men, women and children.
International Hat Co. (workers)	Lutesville, Mo.	Oct. 23, 1978	Oct. 19, 1978	TA-W-4,294	Men's wool, cotton and polyester hats and caps for winter and summer.
Jacoby-Bender, Inc., Bronx Leather Factor (company)	Bronx, N.Y.	do	Oct. 17, 1978	TA-W-4,295	Leather watch straps.
Rockwell International Corp., Adm.-ral Group (workers)	Long Island City, N.Y.	do	Oct. 20, 1978	TA-W-4,296	Sell and distribute parts and also serves as an electronic service center.
Uniroyal, Inc. (Labor Council)	Eau Claire, Wis.	do	Oct. 11, 1978	TA-W-4,297	Passenger car tires, truck tires, off the road tires, etc.

[FR Doc. 78-31167 Filed 11-2-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the

Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Sub-

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part B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Di-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

The petitions filed in this case are available for inspection at the Office

of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of October 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Brockway Glass Co., Inc. (workers).....	Clarksburg, W. Va.....	Oct. 26, 1978	Oct. 26, 1978	TA-W-4, 298	Glass tableware.
Louis Goldsmith, Inc., (ACTWU).....	Philadelphia, Pa.....	Oct. 24, 1978	Oct. 23, 1978	TA-W-4, 299	Men's tailored clothing.
Rockwell International Corp., Admi- ral Group (workers).	San Antonio, Tex.....	Oct. 25, 1978	do.....	TA-W-4, 300	Warehouse, office, service department and distribution of TV's and stereos.
Do.....	Houston, Tex.....	do.....	do.....	TA-W-4, 301	Sales office and service repair for TV's and appliances.
Rotary Machine Co. (company).....	Nashville, Tenn.....	do.....	Oct. 3, 1978	TA-W-4, 302	French cord binding and vinyl binding for shoes.
J. P. Stevens Co., Rock Hill Industrial Plant (workers).	Rock Hill, S.C.....	do.....	Oct. 23, 1978	TA-W-4, 303	Denim fabrics.

[FR Doc. 78-31168 Filed 11-2-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such

request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 17, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 2000 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of October 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Lenoir/Hickory Knitting Mills, Inc. (company).	Lenoir, N.C.....	Oct. 19, 1978	Oct. 13, 1978	TA-W-4,283	Ladies' knit nylon polyester & orlon acrylic sweaters.
Lenoir/Hickory Knitting Mills, Inc. (company).	New York, NY.....	do.....	do.....	TA-W-4,284	Corporate headquarters.
Novelty Footwear, Inc. (Retail Clerk International Union).	Port Jervis, N.Y.....	Oct. 20, 1978	Oct. 17, 1978	TA-W-4,285	Women's non-rubber footwear.
Rockwell International, Admiral Group, San Francisco Sales & Service (company).	Brisbane, Calif.....	do.....	Oct. 18, 1978	TA-W-4,286	Serves as a distributor service repair for televisions.
Salvatori Corporation (International Leather Goods, Plastics & Novelty Workers Union).	Atlanta, Ga.....	do.....	Oct. 13, 1978	TA-W-4,287	Men's belts, wallets, key chains, etc.
Teletype Corporation (IBEW).....	Little Rock, Ark.....	do.....	Oct. 16, 1978	TA-W-4,288	Teletype machines for data processing.

[FR Doc. 78-31169 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3970]

JEAN FASHIONS, INC., PATERSON, N.J.**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3970: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 13, 1978, in response to a worker petition received on July 10, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Jean Fashions, Inc., Paterson, N.J.

The Notice of Investigation was published in the *FEDERAL REGISTER* on July 28, 1978 (43 FR 32885-86). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Jean Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A survey of Jean Fashions' major manufacturers in 1976 and 1977 indicated that none of the manufacturers decreased purchases from the subject firm while increasing purchases of imports. Although Jean Fashions' sales declined in 1977 as compared to 1976, the manufacturers who decreased purchases from the subject firm reported that they did not purchase any imports or use foreign contractors. Sales by Jean Fashions then increased in

the first 6 months of 1978 compared to the like period of 1977.

CONCLUSION

After careful review, I determine that all workers of Jean Fashions, Inc., Paterson, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-31156 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3920]

KENNECOTT COPPER CO. CORP., TINTIC DIVISION, EUREKA, UTAH**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3920: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 29, 1978, in response to a worker petition received on June 29, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc ore and concentrate at the Tintic Division of Kennecott Copper Co. Corp., Eureka, Utah. During the course of the investigation, it was established that only the Bergin mine and concentrator of the Tintic Division produced zinc and that lead was also mined at the Bergin mine and concentrator.

The notice of investigation was published in the *FEDERAL REGISTER* on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kennecott Copper Co. Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, *The American Metal Market*, *Metal Bulletin*, *Metals Week*, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 before declining to 555,147 short tons in 1977. Imports increased from 121,120 short tons in the first quarter of 1977 to 155,998 short tons for the same period in 1978. The import to domestic production ratio increased from 76.7 percent in 1975 to 127.0 percent in 1976 and then to 127.9 percent in 1977. The import to domestic production ratio increased from 94.0 percent in the first quarter of 1977 to 152.1 percent for the same period in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.6 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domestic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

The price which Tintic Division received for the zinc concentrates it sold was tied to the U.S. producers' price for refined zinc by a long term contract with Tintic's only customer. When the price fell below Tintic's unit production cost, the company decided to close the Bergin mine rather than continue to incur losses.

U.S. imports of refined and recovered lead increased from 101 thousand short tons in 1975 to 147 thousand short tons in 1976 and then increased to 264 thousand short tons in 1977. Imports increased from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons for the same period in 1978. The import to domestic

production ratio increased from 7.8 percent in 1975 to 10.7 percent in 1976 and then to 19.7 percent in 1977. The import to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

Imports of lead are affected by the differential between the domestic producers' price and the price of lead on the London Metal Exchange (LME). Generally, prices charged by domestic producers range from 2 to 4 cents per pound above LME prices. When the LME price drops more than the 2 to 4 cents per pound below the domestic producer's price, there is increased demand for imported lead. In August 1977 there was a 6-cent difference in lead prices (31 cents by U.S. producers versus 25 cents by the LME), which may have prompted some U.S. customers to purchase abroad. Also from February-April 1978 lead prices on the LME have ranged from 6.5 to 7.0 cents per pound lower than those charged by U.S. producers. Consequently, imports of refined and recovered lead increased 79.6 percent from 1976 to 1977 and 40.4 percent in the first quarter of 1978 when compared to the same period in 1977, while domestic production of lead has remained fairly constant in 1977 and in the first quarter of 1978.

Lead and zinc were mined together, since both were extracted from the same ore. The price which Tintic Division received for the lead concentrates it sold was tied to the U.S. producers' price for refined lead. The company decided that price was too low to offset the losses it was incurring from zinc sales, and the Bergin mine was closed.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the lead and zinc mined and processed at the Bergin mine and concentrator of the Tintic Division of Kennecott Copper Co. Corp., Eureka, Utah, contributed importantly to the decline in sales and production and to the total or partial separation of workers at those facilities. In accordance with the provisions of the Act, I make the following certification:

All workers at the Bergin mine and concentrator of the Tintic Division of Kennecott Copper Corp., Eureka, Utah, who became totally or partially separated from employment on or after March 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31157 Filed 11-2-78; 8:45]

[4510-28-M]

[TA-W-3666]

NATALIE ANN FASHIONS, INC., UNION CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3666: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' winter coats at Natalie Ann Fashions, Inc., Union City, N.J. The investigation revealed that ladies' spring coats and winter coats are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on May 28, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Natalie Ann Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Natalie Ann Fashions, Inc. worked in 1976 and 1977. A manufacturer that accounted for a majority at Natalie Ann's sales in 1976 and 1977 reduced purchases of women's coats

from Natalie Ann Fashions, Inc., and began purchasing imported women's coats in the period June 1, 1977 through May 31, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Natalie Ann Fashions, Inc., Union City, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Natalie Ann Fashions, Inc., Union City, N.J., who became totally or partially separated from employment on or after November 6, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31158 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3238]

NEWMONT EXPLORATION, LTD., SPOKANE, WASH.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3238: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 23, 1978, in response to a worker petition received on February 14, 1978, which was filed on behalf of workers and former workers performing mineral exploration work at Newmont Exploration, Ltd., in Spokane, Wash. During the course of the investigation it was revealed that workers at the Spokane, Wash., facility were engaged in exploration for uranium.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (42 FR 10650). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Newmont Mining Corp., Newmont Exploration Ltd., the U.S. Department of Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Bureau of Metal Statistics,

Metals Week, Metal Bulletin, industry analysts, and Department files.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of uranium increased from 1,100 short tons in 1975 to 2,900 short tons in 1976 and increased to 4,000 short tons in 1977. The ratio of imports to domestic production increased from 9.5 percent in 1975 to 22.8 percent in 1976 and to 28.6 percent in 1977.

Although imports of uranium increased from 1975 to 1976 and from 1976 to 1977, U.S. production also increased during the same period. U.S. production is expected to continue increasing, in response to demand which, it is anticipated, will rise at an annual rate of 15 percent through 1985. Exploration for uranium reached an all-time high in 1977, according to the U.S. Department of the Interior. This is partly due to rapidly escalating prices for uranium in the last 4 years. However, there has been a noticeable absence of major discoveries in new districts. Deposits tend to be at greater depths and of lower grades than existing reserves. Deeper drilling has required larger and heavier rigs. These heavier rigs are in short supply due to the upsurge in drilling by the oil and gas industry.

Exploration expenses have increased due to the need for deeper drilling, and higher labor and equipment costs. These factors combined with the lack of new discoveries have acted to restrict the extent of uranium exploration activity in the United States.

The Spokane, Wash., facility of Newmont exploration was a temporary site established to conduct an 18-24 month uranium exploration project for the Dawn Mining Co., a subsidiary of Newmont Mining Corp. The project was disbanded in December 1977 after no uranium had been discovered.

CONCLUSION

After careful review, I determine that all workers of the Spokane, Wash., facility of Newmont Exploration, Ltd., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31170 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3236 and 3237]

NEWMONT EXPLORATION, LTD., TUCSON,
ARIZ. AND ELKO, NEV.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3236 and 3237: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 23, 1978, in response to a worker petition received on February 14, 1978, which was filed on behalf of workers and former workers performing mineral exploration work at the Tucson, Ariz., and Elko, Nev., facilities of Newmont Exploration, Ltd. During the course of the investigation, it was revealed that Tucson and Elko facilities are engaged in exploration for copper, zinc, and other metals.

The Notice of investigation was published in the *FEDERAL REGISTER* on March 14, 1978 (42 FR 10650). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Newmont Mining Corp., Newmont Exploration, Ltd., the U.S. Department of Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Bureau of Metal Statistics, *Metals Week, Metal Bulletin*, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Copper and zinc combined constitute a substantial proportion of the domestic revenues of Newmont's parent firm, Newmont Mining Corp., with copper being the single most important mineral affecting the operations of Newmont Exploration.

United States imports of refined copper increased 161.2 percent from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 before increasing 1.8 percent to 391 thousand short tons in 1977. The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976, then increased to 22.2 percent in 1977.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 and then declined to 555,147 short tons in 1977. The ratio of imports to domestic production increased from 76.7 percent in

1975 to 127.0 percent in 1976 and to 127.9 percent in 1977.

Imports of both zinc and copper are affected by the differential between the domestic producers price for those commodities and their respective prices on the London Metals Exchange (LME). Domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic producers price is within 5 cents of the LME price.

In the fourth quarter of 1976, the LME price for zinc was 8.6 cents lower than the domestic producers' price for zinc. The average LME price for zinc in 1977 was 7.6 cents lower than the average domestic producers' price for zinc in 1977. During several months of 1977, the price differential was closer to 10 cents.

With respect to copper, when the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the domestic producers' price, the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic producers' price in 1977. In July and August 1977, the LME price was almost 12 cents below the domestic producers' price.

Another factor affecting the price for both zinc and copper are high inventory levels. An oversupply of zinc in 1975 and 1976, coupled with the slack demand for zinc-based products in those years, contributed to record inventory levels for this commodity. Inventories of domestic and imported zinc on consignment at smelters increased from 42,897 short tons in December 1974 to 67,449 short tons in 1975 and to 88,807 short tons in 1976.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975 and increased 2 percent in 1977 compared to 1976, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. In each month during the January-November 1977 period, inventories were above respective levels in 1976.

Abundant supplies of both zinc and copper in the foreseeable future provide no reason for domestic consumers of zinc and/or copper to maintain ties with domestic producers for purposes of a guarantee against zinc and/or copper shortages.

Newmont Mining and other producers of both zinc and copper lost sales in 1977 because of the excessive inventories of domestic and imported zinc and copper.

Price pressure from imported zinc and copper has reduced the ability to

profitably mine domestic ore and convert it to zinc concentrate and copper concentrate.

With respect to copper, industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound, while the weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current market price of 60 cents per pound domestic producers lose, on the average, 3 to 45 cents on each pound of copper they chose to sell.

The majority of copper revenues realized by the parent firm, Newmont Mining Corp., are derived from Newmont's wholly owned subsidiary, Magma Copper Co., with mines and processing facilities at San Manuel and Superior, Ariz. Some copper and zinc revenues are derived from Newmont's 80-percent-owned subsidiary, Idarado Mining Co., Ouray, Colo.

Workers at the San Manuel and Superior, Ariz., facilities of Magma Copper Co. engaged in the production of copper were certified eligible to apply for adjustment assistance by the Department on December 21, 1977 (TA-W-2414 and 2415, respectively). Workers at the Ouray, Colo., facility of Idarado Mining Co. engaged in the production of zinc and copper were certified eligible to apply for adjustment assistance by the Department on May 8, 1978 (TA-W-2701).

The decision to lay off workers and curtail mining operations at both Arizona locations of Magma Copper Co., Newmont Mining Corp.'s largest domestic copper producing subsidiary and at Idarado Mining Co. in 1977 and 1978, was based principally on an attempt by the parent corporation to minimize losses which the company could not avoid were it to operate at normal production levels at current market prices for copper and zinc.

The function of Newmont Exploration, Ltd., is to search for and identify new and existing properties in the United States which promise exploitable deposits of copper, zinc, and other hard minerals to replace those which have been mined in previous years. In those years when copper and zinc prices are depressed to the point where Newmont Mining Corp.'s major copper producing operations, Magma Copper Co. in San Manuel, Ariz., and Superior, Ariz., and Idarado copper and zinc operations are operating at best at a break-even position, Newmont cannot justify expenditures to replace the depletable minerals which are the cause of the company losing money. As sales decreased in 1977 compared with 1976 in reaction to the depressed price of copper and zinc, Newmont Mining Corp. has attempted to reduce operational and overhead ex-

penditures. Because all domestic exploration activity conducted by Newmont Exploration, Ltd., is financed by revenues generated from the sale of copper and zinc as well as quantities of other minerals, a decision was made to layoff employees at Newmont Exploration, Ltd.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper and zinc produced by Newmont Mining Corp. contributed importantly to the total or partial separation of workers at the Tucson, Ariz., and Elko, Nev., facilities of Newmont Exploration, Ltd. In accordance with the provisions of the Act, I make the following certification:

All workers at the Tucson, Ariz., and Elko, Nev., facilities of Newmont Exploration, Ltd., who became totally or partially separated from employment on or after September 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31159 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3528]

PORI, INC., SPARROWS POINT, MD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3528: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers reclaiming rolling oils at PORI, Inc., Baltimore, Md. The investigation revealed that the petitioners' plant was the Sparrows Point, Md., facility of Pori, Inc. Besides reclaiming rolling oils, the workers at this facility produce a variety of specialized rolling mill lubricants and fatty acids.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of PORI, Inc., industry sources, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

With respect to workers producing rolling and reclaimed oils, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The petitioner alleges that imports of steel have contributed to the separations of workers at PORI, Inc. Imported steel cannot be considered to be like or directly competitive with rolling and reclaimed oils. Imports of rolling and reclaimed oils must be considered in determining import injury to workers reclaiming and producing rolling oils at PORI, Inc.

The investigation revealed that U.S. imports of rolling and reclaimed oils are negligible and not significant in terms of trade according to industry and government sources.

With respect to workers producing fatty acids, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The investigation further revealed that both sales and production of fatty acids in terms of both quantity and value increased absolutely in 1977 compared to 1976 and in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review I determine that all workers of the Sparrows Point, Md., facility of PORI, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of
Foreign Economic Research.

[FR Doc. 78-31160 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3387]

QUALITY GLASS CO., MORGANTOWN, W. VA.**Affirmative Determination Regarding
Application for Reconsideration**

On October 4, 1978, one of the petitioners for workers and former workers of Quality Glass Co. requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the *FEDERAL REGISTER* on September 8, 1978, (43 FR 40080).

The petitioner cites new evidence that imports of glass lamp products especially from Mexico and Poland have resulted in lower sales of Quality Glass Co. products and implies that the Department's survey of Quality Glass Co.'s customers as part of the original investigation was inadequate.

CONCLUSION

After review of the application, I conclude that the claims of the petitioner are of sufficient weight to justify reconsideration of the Department of Labor's prior decision.

The application is, therefore, granted.

Signed at Washington, D.C., this 30th day of October 1978.

HARRY J. GILMAN,
*Acting Director, Office of
Foreign Economic Research.*

[FR Doc. 78-31161 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3604]

REGAL FASHIONS CO., PATERSON, N.J.**Negative Determination Regarding Eligibility
To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3604: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' jackets and spring coats at Regal Fashions Co., Paterson, N.J.

The Notice of Investigation was published in the *FEDERAL REGISTER* on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Regal Fashions, its customers (manufacturers), customers of the manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of principal manufacturers who contracted work with Regal in 1976 and 1977. Manufacturers that accounted for 100 percent of sales in 1976 did not purchase any imported ladies' jackets and spring coats or use foreign contractors in 1977. One manufacturer's annual sales of ladies' jackets and spring coats declined in 1977 compared to 1976. A sample of that manufacturer's customers were also surveyed and they reduced purchases of imported ladies' jackets and spring coats and reduced purchases from the manufacturer in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Regal Fashions Co., Paterson, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of October 1978.

JAMES F. TAYLOR,
*Director, Office of Management,
Administration and Planning.*

[FR Doc. 78-31162 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-4245]

**ROCKWELL INTERNATIONAL CORP., ADMIRAL
GROUP, CHICAGO, ILL.****Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 4, 1978, in response to a worker petition received on October 2, 1978, which was filed on behalf of workers and former workers providing engineering functions related to the production of color televisions at the

Chicago, Ill., plant of Rockwell International Corp., Admiral Group.

The Notice of Investigation was published in the *FEDERAL REGISTER* on October 20, 1978 (43 FR 49060). No public hearing was requested and none was held.

The petitioning group of workers in this case is covered under certification TA-W-1571 issued on May 16, 1977. Since all workers separated, totally or partially, from the Chicago, Ill., plant of Rockwell International Corp., Admiral Group, on or after November 25, 1975 (impact date) and before May 16, 1979 (expiration date of the certification) are covered, a new investigation would serve no purpose.

Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 27th day of October 1978.

MARVIN M. FOOKS,
*Director, Office of
Trade Adjustment Assistance.*

[FR Doc. 78-31163 Filed 11-2-78; 8:45 am]

[4510-28-M]

[TA-W-3676]

**SNAPPY GARMENTS MFG. CO., INC., EAST
NEWARK, N.J.****Certification Regarding Eligibility To Apply for
Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3676: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Snappy Garments Manufacturing Co., Inc., East Newark, N.J. The investigation revealed that ladies' coats and raincoats are produced.

The Notice of Investigation was published in the *FEDERAL REGISTER* on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Snappy Garments Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Snappy Garments Manufacturing Co., Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Snappy Garments and increased purchases of imported ladies' coats and raincoats in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and raincoats produced at Snappy Garments Manufacturing Co., Inc., East Newark, N.J. contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Snappy Garments Manufacturing Co., Inc., East Newark, N.J. who became totally or partially separated from employment on or after June 1, 1977 and before May 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after May 1, 1978 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 26th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc. 78-31164 Filed 11-2-78; 8:45 am]

[3510-12-M]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Monday and Tuesday, November 20-21, 1978. The sessions will be open to the public and will be held in Room 416 of Page Building Number 1, 2001 Wisconsin Avenue NW., Washington, D.C. The Monday session will begin at 9 a.m.; the session on Tuesday at 8 a.m.

The Committee, consisting of 18 non-Federal members, appointed by the President from State and local government, industry, science, and other appropriate areas, was established by the Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

November 20, 1978

9 a.m.—Plenary Session (Room 416, Page Bldg. 1):

Plans for meeting.

9:15 a.m.—Working Group Sessions:

Ocean Use Panel (Room 416, Page Bldg. 1), Dr. Evelyn Murphy, Chairman.

Coastal Zone Management Legislation.

Research and Development Panel (Room 401, Page Bldg. 2), Dr. John Knauss, Chairman.

Weather and Climate Panel (Room 438, Page Bldg. 1), Dr. Werner Baum, Chairman.

12 noon—Lunch.

1:30 p.m.—Plenary Session (continued) (Room 416, Page Bldg. 1):

The role of government in meeting national needs for an ocean technology base, Dr. George Mechlin, Vice President for Research, Westinghouse Electric Co.

3 p.m.—Working Group Sessions (continued):

Ocean Use Panel (Room 416, Page Bldg. 1), Dr. Evelyn Murphy, Chairman.

Research and Development Panel (Room 438, Page Bldg. 1), Dr. John Knauss, Chairman.

Federal Reorganization Panel (Room 401, Page Bldg. 2), Mr. Marne Dubs, Chairman.

5 p.m.—Adjourn.

November 21, 1978

8 a.m.—Plenary Session (Room 416, Page Bldg. 1):

Reports of working group chairman on future plans, Working Group Chairmen.

Discussion of NACOA position on Coastal Zone Management Legislation, Dr. Evelyn Murphy.

10 a.m.—Discussion of NACOA report draft material on Federal reorganization, Mr. Marne Dubs.

3 p.m.—Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW. (Room 434, Page Building No. 1), Washington, D.C. 20235. The telephone number is 254-8412.

Dated: October 31, 1978.

DOUGLAS L. BROOKS,
Executive Director.

SAMUEL H. WALINSKY,
Staff Assistant
for Administration.

[FR Doc. 78-31192 Filed 11-2-78; 8:45 am]

[3110-01-M]

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 October 27, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;
An indication of who will be the respondents to the proposed collection;
The estimated number of responses;
The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

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

NATIONAL TRANSPORTATION SAFETY BOARD

Injury information form NTSB-6120.23 on occasion
Physicians; 300 responses; 300 hours
Strasser, A., 395-6132

OFFICE OF MANAGEMENT AND BUDGET

State and local cost analysis Single-time
State and local governments
Richard Eisinger, 395-3214

NATIONAL TRANSPORTATION SAFETY BOARD

Medical information waiver NTSB-6120.24
On occasion
Survivors of general aviation aircraft accidents; 200 responses; 200 hours
Strasser, A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health
Clinical, laboratory, and epidemiologic characterization of patients and families at high risk of cancer
Single-time

Members of high risk families or groups; 300 responses; 150 hours
Office of Federal statistical policy and standard
Richard Eisinger, 673-7956

Center for Disease Control
Telephone survey of health hazard evaluation

Requestors and employers
Single-time

Employers and employees who requested health hazard evaluation; 350 responses; 117 hours
Richard Eisinger, 395-3214

Alcohol, Drug Abuse and Mental Health Administration
Role of pediatricians in the delivery of mental health services to children
Single-time

Pediatricians/pediatric practice; 24,000 responses; 900 hours

Richard Eisinger, 395-3214

National Institutes of Health
Evaluation of cancer care coordinating teams, comprehensive cancer care project

On occasion

Cancer patients, their physicians, nurses, significant others; 980 responses; 327 hours

Richard Eisinger, 395-3214

Office of the Secretary
Questionnaire for personal interview with AFDC recipient

OS-11-78

Single-time

AFDC recipients; 750 responses; 750 hours

Reese B. F., 395-3211

REVISIONS

NATIONAL CREDIT UNION ADMINISTRATION

Financial and statistical report (federally insured State credit unions)

NCUA-5304

Annually

State credit unions; 4,200 responses; 2,100 hours

C. Louis Kincannon, 395-3211

NATIONAL CREDIT UNION ADMINISTRATION

Financial and statistical report

NCUA-5300

Annually

Federal credit unions; 12,700 responses; 6,350 hours

C. Louis Kincannon, 395-3211

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer food service program study of cost and meal quality

Single-time

Summer program sponsors in the 50 States, D.C. and Puerto Rico; 906 responses; 254 hours
Ellett, C. A., 395-6132

Economics, Statistics, and Cooperatives Service
Quarterly agricultural labor survey

Sample of farmers; 45,400 responses; 15,580 hours
Ellett, C. A., 395-6132

Ellett, C. A., 395-6132

Farm and Rural Development Administration

Long-time farm and home plan

FMHA 431-1

On occasion

Farm and Home Plan; 15,000 responses; 5,000 hours

Ellett, C. A., 395-6132

DEPARTMENT OF DEFENSE

Departmental and other industrial security inspection report

DD-696

On occasion

contractor facility; 20,007 responses; 80,028 hours

Marsha Traynham, 395-3773

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community planning and development CDBG housing assistance plan (entitlement and SC comprehensive)
Annually

Units of general local government; 2,000 responses; 20,000 hours

Budget review division

Caywood, D. P., 395-4775

DEPARTMENT OF TRANSPORTATION

federal aviation administration

Certification and Operations: Air Travel Clubs Using Large Airplanes (FAR 123)

Annually

Air travel clubs; 480 responses; 1,682 hours

Strasser, A., 395-6132

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Application to discharge wastewater—short form

EPA 7550-6, 8, and 9

On occasion

Any other current and potential dischargers; 30,000 responses; 30,000 hours

Ellett, C. A., 395-6132

NATIONAL SCIENCE FOUNDATION

Report to the President and Congress: Federal support to universities, colleges, and selected nonprofit institutions, fiscal year 1975

NSF 818

Annually

Federal agencies supporting R. & D.; 98 responses; 980 hours

Laverne V. Collins, 395-3214

DEPARTMENT OF AGRICULTURE

Science and Education Administration
Wisconsin forest products price survey forms

Semiannually

Selected Wisconsin primary forest industry and public agencies; 2,862 responses; 716 hours

Ellett, C. A., 395-6132

Office of General Sales Manager

Request for vessel approval (Public Law 480 program)—cotton

CCC-105

On occasion

Shipping agents; representatives of foreign governments; 1,565 responses; 4,695 hours

Ellett, C. A., 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit

Application for section 8 housing assistance payments program—existing housing

HUD-52515

On occasion

PHAS desiring to administer the section 8 existing housing program; 2,000 responses; 1,000 hours

Budget review division

Caywood, D. P., 395-4775

Housing management

Nonoccupancy assignments under section 235

HUD-9828, 9828A, and 9828B

Monthly

Lender's holding HUD-insured mortgages; 18,000 responses; 16,200 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,

Budget and Management Officer.

[FR Doc. 78-3107 Filed 11-2-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE
COMMISSION

[Rel. No. 10450; 811-2499]

AMERICAN MONEY INSTRUMENTS, INC.

Filing of an Application

OCTOBER 25, 1978.

Notice is hereby given that American Money Instruments, Inc. ("Applicant"), One Continental Drive, Valley Forge, Pa. 19482, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 (the "Act"), filed an application on November 15, 1977, pursuant to section 8(f) of the Act, for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant registered under the Act on June 26, 1974, as an open-end, diversified, management company. It states that, as of the date the application was filed, it was an existing Maryland corporation in good standing.

According to the application, Applicant entered into an Agreement and Plan of Reorganization (the "Agreement") dated September 29, 1977, under which substantially all of Applicant's assets would be sold to Merrill Lynch Ready Assets Trust (the "Trust") in exchange for an equivalent value of shares of the Trust, on the basis of relative net asset values on the closing date. The shareholders of Applicant, at a special meeting held on October 27, 1977, approved resolutions, previously adopted by the Applicant's Board of Directors, which, in essence, provided for the execution of the Agreement and certain other events necessary for the winding up of

Applicant's affairs. Applicant states that on November 1, 1977, pursuant to the Agreement, substantially all of the assets of Applicant were transferred to the Trust in exchange for shares of beneficial interest in the Trust, and that those shares were contemporaneously distributed to Applicant's shareholders. Applicant states further that, immediately prior to the transfer of assets to the Trust, there were 503,443.025 shares of Applicant's common stock outstanding. The net asset value, in the aggregate, of such shares was \$5,034,430.25.

Applicant represents that no brokerage commission was paid on the transfer of assets to the Trust. Applicant states that there are no existing shareholders of Applicant to whom distributions in complete liquidation of their interests have not been made, and that at the time of the filing of this application, Applicant had no shareholders.

Applicant states that it retained \$21,046.00 in cash, and that these assets will not be invested in any securities; rather, they will be used to discharge Applicant's remaining liabilities. Applicant states that Articles of Transfer, as required by the Annotated Code of Maryland, were executed on November 1, 1977, by Applicant and the Trust, and were filed and accepted on November 2, 1977.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 20, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commis-

sion's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31112 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 20748; 70-6153]

CONSOLIDATED NATURAL GAS CO., ET AL.

Post-Effective Amendment Regarding Open
Account Advances to and Acquisition of
Long-Term Notes of Subsidiary Company

OCTOBER 27, 1978.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020; CNG Coal Company; CNG Development Company Ltd.; CNG Producing Company; CNG Research Company; Consolidated Gas Supply Corporation; Consolidated Natural Gas Service Company, Inc.; Consolidated System LNG Company; The East Ohio Gas Company; The Peoples Natural Gas Company; The River Gas Company; West Ohio Gas Company.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its above-named subsidiary companies have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding certain proposed transactions. All interested persons are referred to the post-effective amendment to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated June 5, 1978, and August 15, 1978 (HCAR Nos. 20578 and 20674), Consolidated was authorized to issue and sell short-term notes to banks and commercial paper and to provide financing for certain of its subsidiary companies. Pursuant to the post-effective amendment, Consolidated now proposes to make, from time to time up to May 31, 1979, additional open account advances aggregating up to \$10,000,000 to CNG Producing Company in excess of the \$4,000,000 of advances authorized in the Commission's order of June 5, 1978, for working capital requirements. Such advances may

be made, repaid, and remade as requested by the treasurer of such subsidiary company, upon letter agreement that such open account advances will be repaid on or before a date not more than 1 year from the date of the first advance, with interest at substantially the same effective rate of interest as the related commercial paper or bank borrowings by Consolidated.

Consolidated further intends to make long term loans, aggregating \$9,500,000 in excess of the \$27,000,000 authorized in the aforesaid order of June 5, 1978, to CNG Producing Company for the purpose of partially financing its 1978 capital expenditures for exploration and development of Gulf offshore leases as called for from time to time in 1978 by the treasurer of such subsidiary company. Consolidated will finance these loans from its own internal cash generation. Accordingly, CNG Producing Company proposes to issue to Consolidated and Consolidated proposes to acquire \$9,500,000 principal amount of nonnegotiable, long term notes bearing interest at the rate of 8.25 percent per annum, which rate is predicated on and substantially equal to the effective cost of money to Consolidated through the issuance and sale by Consolidated of its 8½ percent debentures due June 1, 1997, issued in 1977, such interest to be paid semiannually. The notes will mature as follows: \$600,000 in each year 1983 to 1997, inclusive, and \$500,000 in 1998.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed \$350, including \$300 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated. It is also proposed that the Rule 24 certificates of notification regarding the proposed transactions be filed on a quarterly basis.

Notice is further given that any interested person may, not later than November 21, 1978, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law,

by certificate) should be filed with the request. At any time after said date the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31113 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 10451; 812-4217, et al.]

DAILY INCOME FUND INC., ET AL.

Hearing Cancelled; Order Granting Amended Applications for Exemptions

OCTOBER 26, 1978.

In the matters of Daily Income Fund, Inc., 230 Park Avenue, New York, New York 10017, 812-4217; Dreyfus Money Market Instruments, Inc., 767 Fifth Avenue, New York, New York 10022, 812-4229; Institutional Liquid Assets, Inc., 8700 Sears Tower, Chicago, Illinois 60606, 812-4208; InterCapital Liquid Asset Fund, Inc., 130 Liberty Street, New York, New York 10006, 812-4230; Merrill Lynch Government Fund, Inc., and Merrill Lynch Institutional Fund, Inc., 100 Federal Street, Boston, Massachusetts 02110, 812-4213; Scudder Cash Investment Trust, 175 Federal Street, Boston, Massachusetts 02110, 812-4200 and Temporary Investment Fund, Inc., and Trust for Short-Term Federal Securities, Suite 204-Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, 812-4173.

Notice of and order cancelling hearing and granting amended applications for exemptions from Rules 2a-4 and 22c-1 under the Act.

In Investment Company Act Release Nos. 9998 (November 8, 1977), 10161 (March 17, 1978), 10000 (November 8, 1977), 10201 (April 12, 1978), 9999 (November 8, 1977), 9992 (November 4, 1977), and 9983 (November 1, 1977), notices were issued of the filing of applications by: (1) Daily Income Fund, Inc.; (2) Dreyfus Money Market Instruments, Inc.; (3) Institutional Liquid Assets, Inc. ("ILA"); (4) InterCapital Liquid Asset Fund, Inc.; (5)

Merrill Lynch Government Fund, Inc. (formerly, White Weld Government Fund, Inc.) and Merrill Lynch Institutional Fund, Inc. (formerly, White Weld Money Market Fund, Inc.); (6) Scudder Cash Investment Trust; and (7) Temporary Investment Fund, Inc. ("Temp Fund") and Trust for Short-Term Federal Securities ("Fed Fund") (these nine companies are hereinafter referred to collectively as "Applicants"), respectively.¹ Each of the Applicants, with the exception of Dreyfus Money Market Instruments, Temp Fund and Fed Fund, had requested orders pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicants from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit, generally, the valuation of their portfolio instruments on an amortized cost basis. ILA requested, in addition, that its principal underwriter, Salomon Brothers, be exempted from the provisions of Rule 22c-1, to the extent necessary to permit ILA to value its assets at amortized cost. Dreyfus Money Market Instruments, Inc., requested an order pursuant to section 6(c) of the Act granting an exemption from Rule 22c-1 to permit it to calculate its price per share to the nearest 1 cent on a share value of \$1. Temp Fund and Fed Fund requested an order pursuant to section 6(c) of the Act granting an exemption from Rule 2a-4 to permit them to calculate their net asset values per share to the nearest one cent on share values of \$1.²

The aforementioned notices gave interested persons an opportunity to request a hearing on the respective matters and stated, in each case, that an order disposing of that application would be issued as of course (following the expiration of the various periods specified in the notices) unless the Commission should thereafter order a hearing thereon, either upon request or upon the Commission's own motion. The Dreyfus Corporation and Reserve Management Corporation, registered investment advisers, filed requests for such hearings.

Each of the Applicants describes itself as a "money market" fund. Applicants, as well as certain other "money market" funds, requested ex-

¹ ILA states in its application, as amended, that it is in the process of effecting a reorganization into a new business entity ("Successor"), and requests that the order it seeks be applicable to such Successor. Therefore, for purposes of the orders hereby issued, the term "Applicants," as defined herein, includes ILA and its Successor.

² The Commission granted temporary exemptions to each of the Applicants except InterCapital Liquid Asset Fund, Inc. Investment Company Act Release Nos. 10027 (November 28, 1977) and 10161 (March 17, 1978).

emptions in the nature of those described above, to the extent those orders might be necessary, either to permit them to value their assets or to calculate their prices per share in a manner inconsistent with the views of the Commission expressed in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). Release No. 9786, among other things, stated the Commission's views that: (1) it is inconsistent generally with the provisions of Rule 2a-4 under the Act for "money market" funds to value their assets on an amortized cost basis, ignoring market factors, and (2) it is inconsistent with the provisions of Rule 2a-4 under the Act for such funds to "round off" calculations of their net asset values per share to the nearest 1 cent on a share value of \$1.

On April 12, 1978, having determined that it was appropriate in the public interest and consistent with the protection of investors to hold a hearing with respect to the applications of the Applicants and those of other "money market" funds requesting similar relief, the Commission, pursuant to section 40(a) of the Act, ordered hearings on such applications, and, pursuant to Rule 10 of the Commission's Rules of Practice, ordered that the applications be joined for hearing, and that such proceedings be consolidated (Investment Company Act Release No. 10201, April 12, 1978).³

The Applicants and The Reserve Fund, Inc., Dreyfus Liquid Assets, Inc., and the Dreyfus Corporation (the latter three companies being non-party participants in the aforementioned hearing, and who are herein-after referred to as the "Participants") have entered into a joint agreement ("Joint Agreement") whereby Applicants, *inter alia*, agreed to amend their applications in certain respects, and the Participants, *inter alia*, agreed to withdraw any objections, and to waive any right to object, to the granting of the applications of the Applicants if amended in accordance with the terms of the Joint Agreement.⁴

Notice is hereby given that the Applicants have, in accordance with the provisions of the Joint Agreement, amended their applications to request, pursuant to section 6(c) of the Act, exemptions from the provisions of Rule 2a-4 and Rule 22c-1 under the Act, to permit them to calculate their net asset values or prices, for the purpose of sales, redemptions and repurchases of their shares, to the nearest 1 cent

on a share value of \$1. In addition, ILA has requested that its principal underwriter, Salomon Brothers, be exempted from the provisions of Rule 22c-1 to the extent necessary to permit ILA's net asset value to be calculated to the nearest 1 cent on a share value of \$1.

As summarized in the above-cited prior notices of the applications, Applicants state that investors who purchase their shares desire stable net asset values per share, and a relatively constant return on their investments. Each of the Applicants seeks exemptions which would, in its view, enable it largely to achieve these objectives.

Applicants propose to value their portfolio securities in accordance with the views of the Commission set forth in Release No. 9786. As noted above, in part, Release No. 9786 expressed the view that amortized cost valuation should not be utilized, except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation is determined by the boards of directors to be appropriate.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that Rule, with estimates used where necessary or appropriate. Applicants have requested exemptions from Rule 2a-4 and Rule 22c-1 to enable them to price their shares in the manner described above.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants assert that many of their investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income.

They state that many of their shareholders would seek other investment alternatives if such investors could not expect ordinarily that shares of Applicants could be purchased and redeemed at constant net asset values per share. Applicants submit that the exemptions they request are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants have amended their applications to eliminate many of the conditions previously contained in their applications. These conditions are summarized in the above-cited notices of the applications. Applicants, in recognition of the fact that, unlike traditional investment companies with equity securities portfolios, they seek to provide investment vehicles having stable prices per share, have amended their applications to provide the following alternative conditions, which conditions were specified in the Joint Agreement, and have agreed that such conditions may be imposed in any order granting the exemptions they have requested:

(1) Each Applicant states that its Board of Directors [Trustees, in the case of a trust], in supervising Applicants' respective operations and delegating special responsibilities involving portfolio management to Applicants' respective investment advisers, undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicants' investment objectives, that Applicants' respective prices per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest 1 cent, will not deviate from \$1;

(2) Each Applicant states that it will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that it will not (i) purchase an instrument with a remaining maturity of greater than 1 year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(3) Each Applicant states that its purchases of portfolio instruments, including repurchase agreements, will be limited to specified instruments of specified qualities in the case of all instruments other than U.S. Government issues and U.S. Government agency issues.⁵

³With respect to the condition relating to portfolio quality, each Applicant has specified particular quality limitations. These limitations are set forth in the respective applications, as amended. Certain Applicants have agreed to quality limitations which differ in some respects from those set forth in the prior notices of their applications.

Footnotes continued on next page

³That hearing is now scheduled to commence on Nov. 6, 1978.

⁴Applicants filed motions with the Administrative Law Judge assigned to the hearing requesting, *inter alia*, that their applications be severed from the consolidated proceeding. The Administrative Law Judge ordered such severances on Oct. 6, 1978.

As stated at note 2 above, all of the Applicants, with the exception of InterCapital Liquid Asset Fund, Inc., were granted temporary exemptions to enable them to utilize amortized cost valuation, or calculate their net asset values per share to the nearest 1 cent on share values of \$1, in each case under certain conditions to which they agreed. Those temporary orders were to remain in effect until final disposition of the applications by the Commission, including any subsequent judicial review. Certain Applicants have indicated that, if the Commission grants their applications as amended, a transition period will be necessary to permit Applicants to modify their operations to accommodate the procedures proposed in the applications. Accordingly, certain Applicants have requested that they be permitted to operate pursuant to their temporary orders for various periods of time subsequent to any order granting their applications.⁶

In view of the foregoing, particularly (1) on the basis of the applications as amended in the manner described above, and (2) the agreement of the Participants to withdraw their objections to the granting of the applications without a hearing and to waive any right to object thereto, the Commission finds that a hearing on the Applicants' applications is no longer necessary in the public interest or for the protection of investors, and that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly,

It is ordered, pursuant to section 38(a) of the Act, and the hearing on the applications of Applicants is hereby canceled, and that the order for a hearing on these applications is hereby rescinded, effective forthwith.

It is further ordered, pursuant to section 6(c) of the Act, that the requested exemptions from the provisions of Rule 22c-1 and Rule 2a-4 promulgated under the Act be, and hereby are, granted, effective forthwith, each subject to the conditions set forth in the respective amended applications and described above.

It is further ordered, pursuant to sections 38(a) and 6(c) of the Act, that

Footnotes continued from last page
tions. However, these modifications do not establish quality limitations lower than those to which other Applicants have agreed and which were set forth in the notices of the applications of those other Applicants.

⁶The Division of Investment Management has advised the Commission that no Applicant has asked that the temporary orders be extended beyond Feb. 28, 1979. None of the Applicants objects to such extension of the temporary orders.

the orders temporarily granting Applicants' (other than InterCapital Liquid Asset Fund, Inc.) applications as previously noticed be, and hereby are, extended (to the extent they otherwise will have expired by their terms) for such times as may be necessary for those Applicants affected to modify their operations to implement the pricing procedures set forth in their applications as amended; provided, however, that any such extension shall terminate on February 28, 1979.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31114 Filed 11-2-78; 8:45 am]

[8010-01]

[Rel. No. 20750; 70-6217]

EASTERN UTILITIES ASSOCIATES, ET AL.

Proposed Issue and Sale of Common Stock at Competitive Bidding by Holding Company, Issue and Sale of Common Stock by One Subsidiary to Holding Company and Purchase of Debenture Bonds by One Subsidiary From a Second Subsidiary

OCTOBER 27, 1978.

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107; Brockton Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and two of its electric utility subsidiary companies, Brockton Edison Company ("Brockton") and Montaup Electric Company ("Montaup"), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6, 7, 9(a), 10, 12(c), 12(d), and 12(f) of the Act and Rules 42(b)(2), 43(a), 44(a) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA proposes to issue and sell up to 600,000 shares of its common stock (par value \$5) by competitive bidding. EUA proposes to apply the net proceeds from such sale to the purchase at the par value of \$25 per share of the maximum number of shares of Brockton common stock ("Brockton Stock") so purchasable, rounded to the next higher integral multiple of 1,000 up to a maximum of 468,000 shares or a maximum aggregate par value of \$11,700,000.

To the extent that the net proceeds to EUA are less than the amount required for the purchase of the Brockton Stock, the deficiency will be supplied from EUA's treasury. EUA proposes to pledge the Brockton Stock to the First National Bank of Boston as Trustee under EUA's Indenture and Deed of Trust dated as of October 1, 1953, as supplemented securing EUA's Collateral Trust Bonds.

Brockton proposes to apply the proceeds to the purchase of a principal amount of Montaup Debenture Bonds due 2008 (the "Debenture Bonds") equal to the amount of such proceeds. The price to be paid by Brockton to Montaup for the Debenture Bonds will be their face value plus accrued interest. The Debenture Bonds will be pledged by Brockton to State Street Bank and Trust Company under Brockton's Indenture of First Mortgage and Deed of Trust dated as of September 1, 1948, as supplemented and modified, securing Brockton's First Mortgage and Collateral Trust Bonds.

Montaup proposes to apply the proceeds to reduce its outstanding short-term debt to banks. At the time of the sale of the Montaup Stock it is expected that Montaup will have approximately \$32,000,000 in outstanding short-term debt to banks.

It is stated that the Department of Public Utilities of the Commonwealth of Massachusetts has jurisdiction over various aspects of the proposed transactions, that the Public Utilities Control Authority of the State of Connecticut will be asked to waive any jurisdiction it might have over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be incurred in connection with the proposed transactions are \$227,930, including \$38,600 for legal fees. Fees of counsel for the underwriter to be paid by the successful bidder, are \$27,500.

Notice is further given that any interested person may, not later than November 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should

be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31115 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 10455; 812-4226]

INSURED MUNICIPALS-INCOME TRUST, ET AL

Filing of Application

OCTOBER 27, 1978.

Notice is hereby given that Insured Municipals-Income Trust (the "Municipal Fund"), Investors' Corporate-Income Trust (the "Corporate Fund"), and Investors' Governmental Securities-Income Trust (the "Government Fund"), registered under the Investment Company Act of 1940 ("Act") as unit investment trusts (collectively referred to herein as the "Funds"), their sponsor, Van Kampen Saurman, Inc., 208 South La Salle Street, Chicago, Illinois 60604, and a co-sponsor of the Corporate Fund, Dain, Kalman & Quail, Inc. (collectively referred to as the "Applicants"), filed an application on September 22, 1978, and an amendment thereto on October 26, 1978, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated October 17, 1978 (Investment Company Act Release No. 10442), which earlier order amended an order of the Commission dated January 31, 1978 (Investment Company Act Release No. 10109). These orders pursuant to section 6(c) of the Act exempted from the provisions of section 22(d) of the Act the offer and sale of units of the Funds pursuant to a conversion option (the "Plan"), and pursuant to section 11 of the Act permitted the Funds to offer their units at net asset value plus a fixed dollar sales charge pursuant to the Plan. All interested persons are referred to the application on file with the Commission for a statement of the representa-

tions contained therein, which are summarized below.

Under the Plan, as currently administered, a certificateholder in one of the Funds wishing to dispose of his units in a series of that Fund for which a secondary market is being maintained has the option to convert his units into units of another Fund (e.g., Corporate into Municipal, or Municipal into Government) or the Investors' Municipal-Yield Trust (the "Municipal Yield Fund") of any series for which units are available for sale. Applicants state that the purpose of the Plan is to provide investors in each of the Funds a convenient and less costly means of transferring interests as their investment requirements change. Applicants state that the respective sponsors have indicated that they intend to maintain a market for the units of each series of the respective Funds; however, there is no obligation to maintain such a market. Consequently, the respective sponsors reserve the right to modify, suspend or terminate the Plan at any time without further notice to certificateholders.

Assuming a secondary market exists and units of another Fund or the Municipal Yield Fund are available, a certificateholder who notifies the sponsors of his desire to exercise his conversion option will be mailed a current prospectus for each series in which the certificateholder indicates interest. The certificateholder may then select the series into which he desires his investment to be converted. The conversion transaction will operate in a manner essentially identical to any secondary market transaction, except that the Applicants allow a reduced sales charge for all transactions effected under the Plan. Traditionally, units of the Municipal Fund, the Corporate Fund and the Municipal Yield Fund are repurchased by the sponsors and other underwriters of those Funds at the aggregate offering price per unit of the underlying bonds in the respective Fund Series, and are resold at that price per unit plus a sales charge of 4½ percent of such offering price. Traditionally, units of the Government Fund are repurchased by the sponsor and other underwriters of that Fund at the aggregate offering price per unit of the underlying bonds in the respective Series of that Fund, and are resold at that price per unit plus a sales charge of 3½ percent of such offering price. Except for certain conversions by certificateholders in the Government Fund of their Government Fund units into units of another Fund or the Municipal Yield Fund all resale of units by Applicants under the Plan are effected at the unit offering price of the underlying securities of the other Fund or the Municipal

Yield Fund plus a fixed charge of \$15 per unit (or about 1½ percent of such offering price at current market values). The certificateholder receives payment for any excess funds remaining in his account after his investment in one Fund is converted into full units in another Fund or the Municipal Yield Fund.

Applicants hereby seek to extend the Plan to certificateholders of Series 1 and subsequent series (as such series may from time to time be created) of the Municipal Yield Fund, a newly established unit investment trust which is sponsored by Van Kampen Saurman, Inc. The Municipal Yield Fund is comprised primarily of tax-free municipal bonds. Applicants propose to allow Municipal Yield Fund certificateholders to use the proceeds from the sale of any Municipal Yield Fund units to acquire units in any series or group of series of the Funds, and to have such acquisitions be based on the same terms and be subject to the same conditions as those presented in the original application, as amended. Under the Plan, as it is proposed to apply to conversions by Municipal Yield Fund certificateholders of their units into units of any of the Funds, Municipal Yield Fund certificateholders will be allowed to convert their units into units of any of the Funds at the aggregate offering price per unit of the underlying securities of the Funds plus a fixed charge of \$15 per unit (or about 1½ percent of such offering price at current market values).

Applicants assert that the rationale for allowing certificateholders of the Funds to participate in the Plan and effect Fund transactions at a reduced sales charge is equally applicable to certificateholders of the Municipal Yield Fund. Thus, Applicants argue that certificateholders of the Municipal Yield Fund should be allowed to participate in the Plan and convert their units into units of any of the Funds at a reduced sales charge.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of

the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of the Municipal Yield Fund and each of the Funds for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d-1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 21, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31116 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 20751; 70-6198]

KENTUCKY POWER CO. AND INDIANA & MICHIGAN ELECTRIC CO.

Proposed Acquisition of Power Plant by Holding Company Subsidiary and the Proposed Financing for Such Acquisition

OCTOBER 27, 1978.

Notice is hereby given that Kentucky Power Co. ("KPCo"), 15th and Carter Avenue, Ashland, Ky. 41101; and Indiana and Michigan Electric Co. ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Ind. 46801; electric utility subsidiaries of American Electric Power Co., Inc. ("AEP"), a registered holding company have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a)(1), 10 and 12 of the Act and Rules 43, 45 and 50(a)(2) promulgated thereunder regarding the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transaction.

KPCo is one of the operating companies of the AEP system. It presently owns and operates two generating units with a net capability of 800,000 kilowatts. Presently KPCo serves approximately 132,000 customers in a 5,700 square mile area in the eastern section of Kentucky with an estimated population of 407,000.

KPCo's internal winter peak demand has increased steadily since the completion of its Big Sandy Plant in 1969. It is presently projected that KPCo's winter peak demand will increase so that by the winter of 1981-1982 KPCo will be in a deficient generating position unless it acquires new generating capacity. This deficiency is expected to widen to approximately negative 14 percent by the winter of 1983-1984.

The following table shows KPCo's analysis of future power reserve requirements.

KENTUCKY POWER CO. WINTER PEAK DEMAND, GENERATING CAPABILITY AND RESERVES, 1977-78-1983-84

GENERATING CAPABILITY (MW)

Year	Winter peak Demand (MW)	Without KPCo ownership in Rockport plant ¹	With KPCo ownership in Rockport plant
1977-78	777	1,060	1,060
1978-79	852	1,060	1,060
1979-80	937	1,060	1,060
1980-81	1,005	1,060	1,060
1981-82	1,077	1,060	1,255
1982-83	1,155	1,060	1,450
1983-84	1,238	1,060	1,450

RESERVE

Without KPCo ownership		With KPCo ownership	
MW	Percent	MW	Percent
283	36.4		
208	24.4		
123	13.1		
55	5.5		
-17	-1.6	178	16.5
-95	-8.2	295	25.5
-178	-14.4	212	17.1

¹Based on completion of Rockport Unit No. 1 (1300 MW) by winter of 1981-82 and of Rockport Unit No. 2 (1300 MW) by winter of 1982-83, and Kentucky Power Co.'s participation in ownership of Rockport plant to the extent of 15 percent.

²Actual.

The Rockport Plant located near the town of Rockport, Indiana is presently under construction by I&M and will consist of two coal-fired generating units, each of 1,300,000 kilowatt capacity. The construction cost of these two units are estimated to total approximately \$1,250,000,000, of which approximately \$41,000,000, had been incurred by December 31, 1977. Unit No. 1 is presently projected for commercial operation, in the winter of 1981-82 and Unit No. 2 in the winter of 1982-83.

I&M projects that it will need a substantial portion of the Rockport Plant to satisfy its future load requirements. However, I&M projections indicate that a proposed 15 percent participation by KPCo would be acceptable, and would help to reduce the amount of additional capital which I&M would need to raise during the construction period.

It is therefore proposed that KPCo acquire from I&M and that I&M transfer to KPCo, a 15 percent undivided interest as tenant in common in the two Rockport Plant generating units in their present state of construction for an amount equal to 15 percent of I&M's total investment in such units at the time of transfer.

After KPCo has acquired such 15 percent interest, it will be obliged to pay 15 percent of the subsequent costs incurred to complete the two units.

In order to acquire its initial interest in the Rockport Plant for the period through December 31, 1978, KPCo will either pay approximately \$27,000,000 to I&M, or deposit such amount to be used for the payment of the first \$27,000,000 of unpaid invoices for materials, supplies or labor in the construction. Thereafter, both KPCo and I&M will furnish funds for the completion of the Rockport Plant in proportion to their respective undivided interests.

KPCo expects to finance its proposed acquisition partially through cash generated through internal sources, partially through common equity investments in it by its parent, AEP, and partially through long-term bank loans.

KPCo proposes to enter into a bank loan agreement ("Agreement") pursuant to which it would borrow up to \$100,000,000 to be repayable on or before July 31, 1986, from a group of 16 banks. Such borrowings are to be evidenced by notes of KPCo maturing July 31, 1986 and such notes shall bear interest until the principal shall become due and payable at a rate *per annum* equal to 109 percent of the current prime lending rate in effect from time to time at Manufacturers Hanover Trust Co. with 90 day maturities. KPCo may prepay any and all outstanding notes without penalty.

KPCo will pay to each of the sixteen banks a quarterly commitment fee compiled at the rate of one-half of 1 percent *per annum* on the daily average unused amount of the commitment of each bank, if any, during the quarterly period. KPCo will not be required to pay any other fees or charges to the banks in connection with the borrowings under the Agreement. No compensatory balances are required in connection with any borrowings proposed under the Agreement.

The Proceeds from the notes are proposed to be used to acquire the 15 percent interest in the Rockport Plant and in connection with KPCo's construction program.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$10,500, including an estimated \$5,000 in legal fees.

It is stated that the Kentucky Public Service Commission has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, That any interested person may, not later than November 20, 1978, request in writing

that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact of law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31111 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 15454; 811-4931]

THE MEDIA INVESTMENT CO.

Filing of Application

OCTOBER 27, 1978.

Notice is hereby given that the E. W. Scripps Co. ("Applicant"), the survivor through statutory merger of the Media Investment Co. ("Media"), 1100 Central Trust Tower, Cincinnati, Ohio 45202, has filed an application on August 14, 1978, and an amendment thereto on September 26, 1978, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that Media has ceased to be an investment company as defined by the Act. Media, formerly an Ohio corporation, is registered under the Act as a closed-end, nondiversified investment management company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant states that Media registered under the Act on March 7,

1945, and has issued only common stock, such stock having been traded in the over the counter market. The Applicant further states that, prior to its statutory merger with Media (described below), Media had 583,268 of such shares, \$1 par value per share, outstanding, and that those shares were held of record by approximately 1,750 shareholders.

According to the application, Media's board of directors recommended to its shareholders that it be merged with and into Applicant (also an Ohio corporation). The shareholders of Media approved the merger transaction at their annual meeting on July 18, 1978; the merger was effected, according to Applicant, on July 27, 1978, and in accordance with an order of the Commission which, *inter alia*, exempted the merger from the provisions of section 17(a) of the Act (Investment Company Act Rel. No. 10300, June 30, 1978). According to Ohio law, (§ 1701.82, Ohio revised code) Media's separate existence ceased at the time of the effectiveness of the merger.

Applicant states that, according to the terms of the Agreement of Merger ("Agreement"), upon effectiveness of the merger each share of Media's stock was converted into the right to receive \$58 in cash in exchange for tender of each such share to the Liquidating Trustee, The First National Bank of Cincinnati, and that Applicant deposited funds to the Liquidating Trust ("Trust") in accordance with the terms of the Agreement. Applicant asserts that, as of September 8, 1978, \$3,441,140 remained on deposit with the Liquidating Trustee, and that said sum was in respect of 59,330 common shares of Media stock owned by 327 former Media shareholders. The application further states that among those shareholders are 13 former Media shareholders who have become dissenting shareholders to the merger in accordance with § 1701.85 of the Ohio Revised Code and have demanded "fair cash value" for their shares. Applicant also asserts that an additional seven former Media shareholders dissented to the merger as of the close of business on July 27, 1978, the effective date of the merger, and that Applicant currently holds, in accordance with the terms of the Agreement, \$396,430 in respect of the 6,835 common Media shares held by those seven dissenting Media shareholders. That sum, together with the funds held by the Liquidating Trustee as described above, is in the aggregate less than 12 percent of the merger proceeds. According to the application, should any funds in the hands of Liquidating Trustee remain undistributed and unclaimed after a period of five years from the commencement of the Trust, then those funds shall escheat to the State

of Ohio pursuant Ohio law. The application further states that in no instance shall any of the funds in said Trust ever revert to the Applicant. If, one year following the date of the shareholders' approval of the merger, the dissenting shareholders have not been satisfied, the application states that Applicant will transfer to The First National Bank of Cincinnati, as escrow agent, such amount as is necessary to pay any outstanding dissenters' claims, such amount to be no less than \$58 per dissenting share. Applicant further states that it will be obligated to pay any dissenting shareholder the amount by which his claim exceeds the \$58 per share, should a court of competent jurisdiction find the fair cash value to exceed \$58 per share.

The application states that the Liquidating Trust agreement required the Liquidating Trustee to make an initial mailing to each former Media shareholder consisting of forms to instruct such shareholders how to surrender their certificates representing Media shares, together with all necessary transmittal forms. According to the application, the Liquidating Trustee has advised Applicant that it anticipates a second mailing to the former shareholders of Media who have not surrendered their shares for cash, and Applicant has arranged with the Liquidating Trustee to receive monthly lists of former Media shareholders who have not tendered their shares. Applicant states that it will attempt to discover the present whereabouts of such former shareholders, if other than record addresses, for the purpose of enabling the Liquidating Trustee to send duplicate stock transmittal documents to their current addresses.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 21, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an

attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31117 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 15243A; SR-MSRB-78-10]

MUNICIPAL SECURITIES RULEMAKING BOARD

Correction of Order Approving Amended Proposed Rule Change

OCTOBER 26, 1978.

In FR Doc. 78-30172 appearing at page 49870 in the FEDERAL REGISTER of October 25, 1978, the Commission approved an amended proposed rule change filed by the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036. The amended proposed rule change altered the MSRB's interdealer uniform practice rule, MSRB rule G-12, to provide that delivery of municipal securities for which a notice of call has been published for less than the entire issue on or prior to the delivery date, as opposed to trade date, does not constitute good delivery unless the securities are identified as "called" at the time of trade. In announcing that approval, Securities Exchange Act Release No. 15243 [Oct. 19, 1978] failed to indicate that the amended proposed rule change is effective with respect to transactions occurring on or after October 26, 1978. The order should read "It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved effective with respect to transactions occurring on or after October 26, 1978."

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31118 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Rel. No. 15282; SR-NASD-78-7]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

OCTOBER 26, 1978.

On June 23, 1978, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, copies of a proposed rule change to amend section 5 of the NASD Uniform Practice Code (i) to establish the ex-dividend date for stock dividends or stock splits of 25 percent or greater as the first business day after the payable date and (ii) to provide that the ex-dividend date shall be designated by the NASD Uniform Practice Committee for stock dividends or stock splits relating to American Depositary Receipts and foreign securities. The proposed rule change would make the treatment of over-the-counter securities subject to large stock dividends or stock splits consistent with the manner in which the principal national securities exchanges treat listed securities in similar circumstances. The proposed rule change would also make clear that customers' margin accounts that include a marginable over-the-counter security subject to a large stock dividend or stock split between the record date and payable date will not become deficient solely by reason of such stock dividend or stock split. According to the NASD, the rule provides that the ex-dividend date for American Depositary Receipts and foreign securities is to be established by the NASD Uniform Practice Committee because these issues are subject to foreign regulation and require special coordination of dates.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14953, July 12, 1978) and by publication in the FEDERAL REGISTER (43 FR 30950, July 18, 1978). Public comments on the proposed rule change were solicited but none were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations there under applicable to registered national securities associations, and in particular, the requirements of section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the

above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31119 Filed 11-2-78; 8:45 am]

[8010-01-M]

Rel. No. 10456, 812-40091

NUVEEN TAX-EXEMPT BOND FUND MEDIUM-TERM (SERIES 1 AND SUBSEQUENT SERIES) AND JOHN NUVEEN & CO., INC.

Filing of Application

OCTOBER 27, 1978.

Notice is hereby given that Nuveen Tax-Exempt Bond Fund-Medium Term (Series 1 and Subsequent Series) (the "Fund"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and its sponsor, John Nuveen & Co., Inc. ("Sponsor"), 209 South La Salle Street, Chicago, Ill. 60604, (hereinafter the Fund and the Sponsor are collectively referred to as "Applicants"), filed an application on October 17, 1978, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated September 14, 1976 (Investment Company Act Release No. 9437, which earlier order pursuant to section 6(c) of the Act exempted Applicants from the provisions of section 14(a) of the Act and exempted the frequency of the distributions of capital gains by the Fund from the provisions of Rule 19b-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that nine separate series of the Fund have been created as of the date of the filing of this application. Each series is governed by the provisions of a trust indenture and agreement ("Indenture") entered into by the Sponsor and a corporation organized and doing business under the laws of the United States or a state thereof, which is authorized under such laws to exercise corporate trust powers and having at all times an aggregate capital, surplus, and undivided profits of not less than \$5,000,000 ("Trustee"). Each time a separate series is created and activated a separate Indenture is entered into, and the bonds which comprise its portfolio (or delivery statements relating to contracts for the purchase of such bonds together with funds represented by an irrevocable letter of credit issued by a major commercial bank in the amount required for their purchase) are depos-

ited with the Trustee. Except as to size, number of units and the individual bonds in the portfolio, each series is substantially identical. The Indenture relating to each series provides for the termination of such series no later than December 31 preceding the twentieth anniversary of the execution of such Indenture.

Applicants propose to amend the procedures and objectives of the Fund to allow the creation of either one or two separate trusts in each future series of the Fund. The portfolios of each such trust will be identical to those described in the original application except that one trust may be comprised entirely of federally tax-exempt interest-bearing obligations which will mature by their respective terms between 5 and 15 years from the date of creation of such series (which has been the practice with the first nine "Medium-Term" series portfolios), while the second trust may be comprised of federally tax exempt interest-bearing obligations which will mature by their respective terms from 1 to 8 years from the date of creation of such series (the "Short-Term" portfolio).

Applicants propose that each future series of the Fund will be comprised of a Short-Term portfolio alone, a Medium-Term portfolio alone, or two trusts one of which will have a Short-Term portfolio and the other a Medium-Term portfolio. Applicants state that, in essence, they propose that the current Fund be maintained by that they be permitted to create a Short-Term trust in lieu of a Medium-Term trust or in addition to a Medium-Term trust in future series. If a Short-Term trust is created in a future series, Applicants propose that the Indenture will provide that such Short-Term trust will terminate no later than December 31, preceding the tenth anniversary of the execution of such Indenture.

Applicants contend that since the Short-Term trusts and the combination of Short-Term and Medium-Term trusts will follow the same operational procedures outlined in the original application for the Medium-Term trusts alone, the statements made in connection with the exemptive request contained in the original application are equally applicable to this request. Furthermore, Applicants state that they believe the proposed changes in the procedures for organization of separate series of the Fund will have no adverse effect in connection with the exemptive order granted on the original application, particularly with regard to the exemption of the frequency of distributions by the Fund of capital gains from the provisions of Rule 19b-1 under the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 20, 1978 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31120 Filed 11-2-78; 8:45 am]

[8010-01-M]

[Release No. 15280; SR-PHLX-78-13]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

OCTOBER 26, 1978.

On June 26, 1978, the Philadelphia Stock Exchange, Inc. ("PHLX") 17th Street and Stock Exchange Place, Philadelphia, Pa. 19103, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the

"Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would add PHLX bylaw section 12-1(f) to establish a nonparticipating status for regular memberships. As proposed, for each regular membership held, a member would be allowed to acquire from any other member, but not from the PHLX, one additional regular membership which he could elect, at the time of acquisition only, to hold in a nonparticipating status ("NPS"). The proposed rule change also specifies the privileges and obligations of NPS memberships and provisions for their transfer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14937, July 6, 1978) and by publication in the FEDERAL REGISTER (43 FR 30154, July 13, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-31121 Filed 11-2-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/123]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State Advisory Committee on Transnational Enterprises will hold its eleventh meeting on Tuesday, November 14 from 9:30 a.m. until 4 p.m. in room C of the Pan American Health Organization, 525

23rd Street NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss the ongoing work in international fora to include questionable payments, codes of conduct relating to transfer of technology and transnational enterprises, the OECD investment package and transborder data flows. There will be discussion of the work of the United Nations Conference on Science and Technology, and consideration of a proposed U.S. bilateral investment treaty. There will also be discussion of the work of the IMF/IBRD Development Committee. In addition, the Advisory Committee will review the activities of its working groups since last spring.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State, Washington, D.C. 20520. He may be reached by telephone on area code 202-632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the Pan American Health Organization.

The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: October 24, 1978.

DANIEL V. GRANT,
Acting Executive Secretary.

[FR Doc. 78-31065 Filed 11-2-78; 8:45 am]

[4710-07-M]

[Public Notice CM-8/124]

SHIPPING COORDINATING COMMITTEE, SUB-COMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on international multimodal transport and containers of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on November 15, 1978 in Room 8334 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to discuss matters germane to multimodal transport and containers. The following specific issues will be addressed:

Debriefing of the meeting of the 21st Session of the Group of Rapports on Container Transport (GRCT) (BCE) held in Geneva, September 18-22, 1978;

Debriefing of the meeting of the 5th UNCTAD Intergovernmental Preparatory Group on International Multimodal Transport held in Geneva, September 18-October 6, 1978;

Briefing and update of the U.S. position regarding the 2nd Session of the UNCTAD ad hoc Intergovernmental Group on Container Standards for International Multimodal Transport, to be held November 20-December 1, 1978, in Geneva.

For further information concerning this meeting contact either Mr. John Lloyd, Department of State, 202-632-0703 or Mr. Charles Hochman, U.S. Coast Guard, 202-426-1577.

The Chairman will entertain comments from the public as time permits.

ROBIN R. McKEON,

Acting Chairman,

Shipping Coordinating Committee.

OCTOBER 24, 1978.

[FR Doc. 78-31066 Filed 11-2-78; 8:45 am]

[4710-02-M]

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10 (a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-fourth meeting of the Board for International Food and Agricultural Development (BIFAD) on November 20, 1978.

The purpose of this meeting is to receive and discuss the progress reports of the Joint Research Committee and the Joint Committee for Agricultural Development; to discuss BIFAD's recommendations on the Foundation for International Technological Cooperation; to discuss Title XII and BIFAD's role; to discuss the briefing paper on the Overseas Private Investment Corp.; to discuss A.I.D.'s response to selected BIFAD recommendations on fiscal year 1980 Program and Budget; to discuss baseline studies; and to hear various other reports and activities.

The meeting will begin at 10 a.m., adjourn at 4 p.m., and will be held in Room 1107, State Department Building, 22d and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: October 30, 1978.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative,
Board for International Food and Agricultural Development.

[FR Doc. 78-31105 Filed 11-2-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Economic Docket No. 78-1]

REPORT OF THE DEPARTMENT OF TRANSPORTATION ON THE STATE OF THE RAILROAD INDUSTRY

Public Hearing

AGENCY: Federal Railroad Administration ("FRA"), Department of Transportation.

ACTION: Notice of public hearing.

SUMMARY: The FRA will conduct hearings to solicit public comments regarding the Department's preliminary draft report to Congress on the state of the railroad industry entitled "A Prospectus for Change in the Freight Railroad Industry" ("Report"). Comments will be considered in the preparation of the final report. The public is invited to submit written comments on the subject matter and to attend and participate in the hearing.

DATES: (1) The public hearings will be held beginning November 28, 1978.

(2) Prepared written statements should be submitted to the docket clerk by December 30, 1978.

(3) Persons desiring to participate in the hearing should notify the docket clerk by November 20, 1978, of the meeting in which they wish to participate and indicate the amount of time they will need to present their views.

ADDRESS: (1) Hearing location:

1. Logan Airport Hilton Hotel, Logan International Airport, East Boston, Mass.—Tuesday, November 28.

2. William J. Green Federal Building, Room 6306-10, 600 Arch Street, Philadelphia, Pa.—Thursday, November 30.

3. State Highway Building, Room 401, No. 2 Capital Square, Atlanta, Ga.—Thursday, November 30.

4. City Council Chambers, 1000 Throckmorton Street, Fort Worth, Tex. 76102.—Tuesday, December 5.

5. Federal Building, 915 Second Avenue, Seattle, Wash. 98174.—Tuesday, December 5.

6. Pick Congress Hotel, 520 South Michigan Street, Chicago, Ill.—Thursday, December 7.

7. State Building Annex, Room 1194, 350 McAllister, San Francisco, Calif.—Friday, December 8.

8. Federal Aviation Administration Building, Auditorium, 800 Independence Avenue SW, Washington, D.C. 20591.—Monday, December 11.

Each meeting will commence at 9 a.m.

(2) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-7737.

FOR FURTHER INFORMATION CONTACT:

Thomas A. Till, Director, Office of Rail Industry Structure, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-0382.

SUPPLEMENTARY INFORMATION: Sections 504 and 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("4R Act"), require the Secretary of Transportation to develop, publish, and transmit to Congress a comprehensive study of the Nation's rail system and the capital needs of the railroad industry and the Secretary's recommendations based on the study.

On October 10, 1978, the Secretary transmitted to Congress the preliminary report and recommendations to improve the national railroad system through changes in Federal policies. The proposed changes will affect the physical structure and economic regulation of the railroad industry, funding for the construction and operation of rights of way of other modes of transportation and future financial assistance to the railroad industry.

The FRA will conduct hearings to afford all interested persons an opportunity to comment on the report. All comments and statements received will be considered in the preparation of the final report to Congress.

Commentators are strongly urged to address their comments to key policy areas addressed in the report. Comments should discuss but need not be limited to the following matters within the context of the report:

1. Physical restructuring of the national rail system (Chapter 4);
2. Changes in regulation of the railroad industry (Chapter 6);

3. Government policies toward competing transportation modes (Chapter 5);

4. Government financial assistance programs (Chapter 7).

In addition to the four areas of major policy recommendations addressed above, the report identifies various aspects of industry management practices as well as the complex structure of labor-management relations as significant problems of the industry. The public is also invited to comment on these topics in person at the public hearings or by letter.

Copies of the report are being widely distributed to the public. Anyone wishing a copy should send a self-addressed, gummed mailing label to: 504 Report, Federal Railroad Administration (RPD-10), Washington, D.C., 20590.

Issued in Washington, D.C., on October 31, 1978.

JOHN M. SULLIVAN,
Federal Railroad Administrator.

[FR Doc. 78-31123 Filed 11-2-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 172]

ASSISTANT COMMISSIONER (EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS) AND DIRECTOR, ACTUARIAL DIVISION

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: At the present time, there is no delegation of authority to grant a waiver of the 100 percent tax imposed under section 497(b) of the Internal Revenue Code in accordance with section 3002(b) of the Employee Retirement Income Security Act. This Delegation Order has been drafted to delegate authority on these matters to the Assistant Commissioner (Employee Plans and Exempt Organizations) and the Director, Actuarial Division.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Winfield C. Burley, 1111 Constitution Avenue NW., Room 2557, Washington, D.C. 20224, 202-566-4346 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the

FEDERAL REGISTER for Wednesday,
May 24, 1978.

S. A. WINBORNE,
Assistant Commissioner (Em-
ployee Plans and Exempt Or-
ganizations).

Subject: Authority to Waive the 100 per-
cent Excise Tax imposed Under Section
4971(b) of the Internal Revenue Code.

Issued: October 25, 1978.

Effective: October 25, 1978.

Pursuant to the authority vested in the
Commissioner of Internal Revenue by
Treasury Department Order 150-37 dated
March 17, 1955, there is hereby delegated to
the Assistant Commissioner (Employee
Plans and Exempt Organizations) and the
Director, Actuarial Division, the authority
to waive all or part of the additional tax im-
posed under IRC 4971(b) in accordance with
subsection (b) of section 3002 of the Em-
ployee Retirement Income Security Act of
1974 (ERISA).

The authority delegated herein may not
be redelegated.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc. 78-31071 Filed 11-2-78; 8:45 am]

[4810-40-M]

Office of the Secretary

NOVEMBER 1, 1978.

[Public Debt Series—No. 26-78]

TREASURY NOTES OF NOVEMBER 15, 1988

Series 8-1988; Amendment to Department
Circular

Department of the Treasury Circu-
lar, Public Debt Series—No. 26-78,
dated October 26, 1978, is hereby
amended by deleting Paragraph 3.1.,
and in lieu thereof inserting the fol-
lowing: "Tenders will be received at
Federal Reserve Banks and Branches
and at the Bureau of Public Debt,
Washington, D.C. 20226, up to 1:30
p.m., Eastern Standard time, Thurs-
day, November 2, 1978. Noncompeti-
tive tenders will be considered timely
if postmarked no later than Wednes-
day, November 1, 1978."

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

In the matter of Treasury securities—
Treasury announces amendments to auction
of 10-year notes and 30-year bonds:

SUPPLEMENTARY STATEMENT

The announcement set forth above
does not meet the Department's crite-
ria for significant regulations and, ac-
cordingly, may be published without
compliance with the Departmental
procedures applicable to such regula-
tions.

[FR Doc. 78-31355 Filed 11-2-78; 11:04 am]

[4810-40-M]

[Public Debt Series—No. 27-78]

TREASURY BONDS OF 2003-2008

Amendment to Department Circular

NOVEMBER 1, 1978.

Department of the Treasury Circu-
lar, Public Debt Series—No. 27-78,
dated October 26, 1978, is hereby
amended by deleting Paragraph 3.1,
and in lieu thereof inserting the fol-
lowing: "Tenders will be received at
Federal Reserve Banks and Branches
and at the Bureau of the Public Debt,
Washington, D.C. 20226, up to 1:30
p.m., Eastern Standard time, Friday,
November 3, 1978. Noncompetitive
tenders will be considered timely if
postmarked no later than Thursday,
November 2, 1978."

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

In the matter of Treasury securities—
Treasury announces amendments to auction
of 10-year notes and 30-year bonds:

SUPPLEMENTARY STATEMENT

The announcement set forth above does
not meet the Department's criteria for sig-
nificant regulations and, accordingly, may
be published without compliance with the
Departmental procedures applicable to such
regulations.

[FR Doc. 78-31356 Filed 11-2-78; 11:04 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 736]

ASSIGNMENT OF HEARINGS

OCTOBER 31, 1978.

Cases assigned for hearing, post-
ponement, cancellation, or oral argu-
ment appear below and will be pub-
lished 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 no-
tices of cancellation of hearings as
promptly as possible, but interested
parties should take appropriate steps
to insure that they are notified of can-
cellation or postponements of hearings
in which they are interested.

MC 115826 (Sub-293F), W. J. Digby, Inc.,
now assigned October 31, 1978 at Dallas,
TX (1 day), is canceled and application
dismissed.

MC 109397 (Sub-398F), Tri-State Motor
Transit Co., now assigned October 30, 1978
at Dallas, is canceled and transferred to
Modified Procedure.

MC 125996 (Sub-56F), Road Runner Truck-
ing, Inc., now assigned November 28, 1978

at Los Angeles, CA, is canceled and trans-
ferred to Modified Procedure.

MC 112520 (Sub-346), McKenzie Tank
Lines, Inc., now assigned October 30, 1978
at Birmingham, AL, is canceled and trans-
ferred to Modified Procedure.

MC 111302 (Sub-123F), Highway Transport,
Inc., now assigned November 28, 1978 at
Nashville, TN, is canceled and transferred
to Modified Procedure.

MC 103051 (Sub-429F), Fleet Transport Co.,
Inc., now assigned November 28, 1978 at
Nashville, TN, is canceled and transferred
to Modified Procedure.

MC-C 10167, Akers Motor Lines, Inc., and
Akers-Central Motor Lines, Inc., Investi-
gation and Revocation of Certificated now
assigned October 31, 1978 for pre-hearing
conference at the Offices of the Interstate
Commerce Commission at Washington,
DC.

MC 61231 (Sub-122F), Easter Enterprises,
Inc., d.b.a. Ace Lines, Inc., now assigned
December 13, 1978 at Denver, CO (3 days),
will be held in Division 2, U.S. Court-
house, 1929 Stout Street, instead of Room
C-503 U.S. Courthouse, 1929 Stout Street.
MC 118159 (Sub-277F), National Refrigerat-
ed Transport, Inc., now assigned Decem-
ber 12, 1978 at Denver, CO (1 day), in
Room C-503, U.S. Courthouse, 1929 Stout
Street.

MC 114569 (Sub-221F), Shaffer Trucking,
Inc., now assigned December 4, 1978 (5
days), at Denver, CO in OSHRC, Suite
1718, 1050 17th Street.

AB 7 (Sub-62), Stanley E. G. Hillman,
Trustee of the Property of Chicago, Mil-
waukee, St. Paul and Pacific Railroad Co.,
Debtor Abandonment Near Faribault and
Zumbrota, in Rice and Goodhue Counties,
MN, now assigned November 27, 1978 at
Zumbrota, MN, is postponed to November
28, 1978 (4 days), at Zumbrota, MN, in
City Hall, 55 East Third Street.

MC 135797 (Sub-132F), J. B. Hunt Trans-
port, Inc., now being assigned for hearing
on December 5, 1978 (1 day), at Chicago,
IL, in a hearing room to be later designat-
ed.

MC 110563 (Sub-232F), Coldway Food Ex-
press, Inc., now assigned November 29,
1978 at Denver, CO (2 days), in Room C-
503, U.S. Courthouse, 1929 Stout Street.

MC 136008 (Sub-94F), Joe Brown Co., Inc.,
is assigned for hearing November 1, 1978
at Dallas, TX, in Room 5A15-17, Federal
Building, 1100 Commerce Street.

MC 134922 (Sub-249), B. J. McAdams, Inc.,
is assigned for hearing November 6, 1978
at Dallas, and will be held in Room 5A15-
17, Federal Building, 1100 Commerce
Street.

MC 2202 (Sub-551), Roadway Express, Inc.,
is assigned for hearing November 7, 1978
at Dallas, TX, and will be held at Room
5A15-17 Federal Building, 1100 Commerce
Street.

MC 115826 (Sub-327F), W. J. Digby, Inc.,
now assigned December 11, 1978 at
Denver, CO (1 day), in Room C-503 U.S.
Courthouse, 1929 Stout Street.

MC 143227 (Sub-2), Garland L. Enox Con-
tract Application, is assigned for hearing
November 2, 1978 at Dallas, TX, and will
be held in Room 5A15-17 Federal Build-
ing, 1100 Commerce Street.

MC 139482 (Sub-57F), New Ulm Freight
Lines, Inc., is assigned for hearing Novem-
ber 27, 1978 at New York, NY, and will be
held at U.S. Court of Claims, Courtroom
A-238, 26 Federal Plaza.

MC 69454 (Sub-5), Ditto Freight Lines, now assigned December 11, 1978 at San Francisco, CA (1 week), in Room 503, 555 Battery Street.

MC-F 13554, Central Transport, Inc. Purchase (Portion), Eastern Express, Inc., and MC 118831 (Sub-161F), Central Transport, Inc., now assigned November 6, 1978 at Washington, DC, is postponed to January 22, 1979 at the Offices of the Interstate Commerce Commission.

MC 119226 (Sub-103F), Liquid Transport Corp., is assigned November 28, 1978 at Nashville, TN, and will be held at Room 651, U.S. Courthouse, 801 Broadway.

MC 124078 (Sub-791F), Schwerman Trucking Co., is assigned for hearing November 28, 1978 at Nashville, TN, and will be held at Room 651, U.S. Courthouse, 801 Broadway.

MC 103051 (Sub-426F), Fleet Transport Co., Inc., is assigned for hearing November 28, 1978 at Nashville, TN, and will be held at Room 651, U.S. Courthouse, 801 Broadway.

MC 119789 (Sub-435F), Caravan Refrigerated Cargo, Inc., is assigned for hearing December 6, 1978 at San Francisco, CA, and will be held at Room 13216-C, 450 Golden Gate.

MC 113678 (Sub-733F), Curtis, Inc., is assigned for hearing December 4, 1978 at San Francisco, CA, and will be held at Room 503, 555 Battery Street.

MC 106644 (Sub-256F), Superior Trucking Co., Inc., is assigned for hearing November 28, 1978 at San Francisco, CA, and will be held at Room 503, 555 Battery Street.

MC 116260 (Sub-9), Pasha Truckaway, is assigned for hearing November 29, 1978 at San Francisco, CA, and will be held at Room 503, 555 Battery Street.

MC 124947 (Sub-97), Machinery Transports, Inc., MC 113855 (Sub-433F), International Transport, now being assigned for hearing on December 4, 1978 (1 day), at Albuquerque, NM, in a hearing room to be later designated.

MC 124947 (Sub-86), Machinery Transports, Inc., MC 113855 (Sub-434F), International Transport, Inc., now being assigned for hearing on December 5, 1978 (1 day), at Albuquerque, NM, in a hearing room to be later designated.

MC 109780 (Sub-76F), Trailways, Inc., now being assigned for hearing on December 13, 1978 (3 days), at Fresno, CA, in a hearing room to be later designated.

MC 143249 (Sub-2), Mid Eastern Transportation, Inc., Common Carrier Application is assigned for hearing November 29, 1978 at Nashville, TN, and will be held at Room 651, U.S. Courthouse, 801 Broadway.

MC-F 13546, Harper Truck Service, Inc., Purchase (Portion F & W Express, Inc.), is assigned for hearing December 4, 1978 at Puducah, KY, and will be held at Commissioner's Chambers, City Hall, Smith and Washington Streets.

MC 144409 (Sub-1F), F. C. Auto Sales, Inc., is assigned for hearing November 13, 1978 at Denver, CO, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 114211 (Sub-344F), Warren Transport, Inc., is assigned for hearing November 13, 1978 at Chicago, IL, and will be held at Room No. 834 E. M. Dirksen Building, 219 South Dearborn Street.

MC 114457 (Sub-400F), Dart Transit Co., is assigned for hearing November 30, 1978 at New York, NY, and will be held at U.S.

Court of Claims, Courtroom A-238, 26 Federal Plaza.

MC 144464F, United States Student Travel Service, Inc., d.b.a. Travelon Tours, is assigned for hearing November 28, 1978 at New York, NY, and will be held at U.S. Court of Claims, Courtroom A-238, 26 Federal Plaza.

MC-F 13434, Central Transfer Co., Purchase (Portion), Robert Emanuel and Margaret Emanuel d.b.a. Emanuel's Express and MC 1403 (Sub-4), Central Transfer Co., is assigned for hearing November 7, 1978 at New York, NY, and will be held at Room D-2206, Federal Building, 26 Federal Plaza.

MC 144741 (Sub-1F), Nettleton Enterprise Co., Inc., d.b.a. Norwood Transport, is assigned for hearing November 20, 1978 at Chicago, IL, and will be held at Room 834, E. M. Dirksen Building, 219 South Dearborn Street.

No. 36963, Chicago & North Western Transportation Co. versus the Chicago, Rock Island & Pacific Railroad Co., William M. Gibbons, Trustee, is assigned for hearing November 20, 1978 at Chicago, IL, and will be held in Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-31182 Filed 11-2-78; 8:45 am]

[1505-01-M]

[Decisions Volume No. 28]

DECISION-NOTICE

Correction

In FR Doc. 78-25769, appearing at page 41128 in the issue for Thursday, September 14, 1978, make the following changes:

1. On page 41131, second column, second line of MC 108340 (Sub-32F), "HANLEY" should read "HANEY".
2. On page 41132, first column, 20th line of MC 114274 (Sub-50F), "ME" should read "NE".

[1505-01-M]

[Decisions Volume No. 33]

DECISION-NOTICE

Corrections

In FR Doc. 78-27191, appearing at page 44586 in the issue for Thursday, September 28, 1978, make the following changes:

1. On page 44588, second column, "MC 95876 (Sub-24F)" should read "MC 95876 (Sub-248F)".
2. On page 44589, second column, ninth line of MC 114273 (Sub-439F), delete the word "to".

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 31, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publications of this notice.

FSA No. 43619, Southwestern Freight Bureau, Agent's No. B-779, rates on rice and rice combined with vegetables, from Bayport, Baytown, and Houston, TX, to Foxboro, MA, in Supp. 113 to its Tariff 326-C, ICC 5155, to become effective December 5, 1978. Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-31183 Filed 11-2-78; 8:45 am]

[7035-01-M]

INTERNATIONAL JOINT RATES AND THROUGH ROUTES

Petition To Depart From Tariff Publishing Rules Governing the Filing of Joint Intermodal Tariffs To Publish Separate Tariff Containing Rail Carriers' Division of Revenue and Other Provisions

Tariffs naming through routes and joint rates on international traffic are subject to various tariff publishing rules under Title 49, Code of Federal Regulations, Part 1300 to end (49 CFR 1300). The tariffs are issued to cover the transportation of property between any place in the United States and any place in a foreign country, via the lines of common carriers by railroad, water, and motor vehicle subject to the Interstate Commerce Act, on the one hand, and vessel operating common carriers by water engaged in the foreign commerce of the United States as defined by the Shipping Act 1916, on the other.

The tariff publishing rules relating to publication of joint international rates and routes prescribed in 49 CFR 1300 are the result of proceedings instituted in Ex Parte No. 261, *In The Matter of Tariffs Containing Joint Rates and Through Routes for the Transportation of Property Between Points in the United States and Points in Foreign Countries*.

Every tariff naming such through routes and joint rates must be filed with this Commission, and may be filed in the name of the ocean carrier, a conference of ocean carriers, the domestic carrier or its tariff publishing agent. The tariff shall include a description of the services to be performed by each participating carrier, contain a statement of the joint rate,

and a clear and definite statement of the division, rate, or charge received by the domestic carrier for its share of the revenue covering a through shipment or aggregate of shipments under the tariff.

Sea Land Service, Inc. (Sea-Land), has petitioned the Commission for authority to depart from the foregoing regulations to issue a separate tariff which would govern each of 14 independent international tariffs. Some information, such as motor and rail service descriptions, divisions of revenue, terminal locations, routings, and rail freight station locations, is repeated in each of the 14 tariffs. The purpose of the proposed publication is to combine the repetitive matter into one tariff, which will govern each of the other tariffs.

Comments are requested from interested parties concerning the proposal with particular emphasis on any problems or benefits which may arise from implementation of Sea-Land's proposal.

Written comments should be filed with the Commission within 30 days of publication herein. Send comments to Special Permission Board, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, 202-275-7739.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-31184 Filed 11-2-78; 8:45 am]

[1505-01-M]

[Volume No. 102]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

Correction

In FR Doc. 78-18661, appearing at page 29215 in the issue for Thursday, July 6, 1978; on page 29218, third column, 16th line of MC 105461 (Sub-No. 99F), "NJ" should read "NY".

[7035-01-M]

[Finance Docket No. 28842]

WISCONSIN BARGE LINE, INC.—PURCHASE—MIDWEST TOWING CO., INC.; CORRECTION¹

Wisconsin Barge Line, Inc., Cassville, Wis. 53806 represented by Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60606 hereby gives notice that on the 28th day of August 1978, it filed with the Interstate Commerce Commission at Washington, D.C. an application under section 5 of the Interstate Commerce Act for a decision approving and authorizing Wisconsin Barge Line, Inc., to purchase the operating authority of Midwest Towing Co., Inc., pursuant to authority granted in Docket No. W-764, a common carrier by towing vessels in the performance of general towage, and by self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels in the transportation of commodities generally, between points on the St. Croix River and the Mississippi River from Minneapolis, Minn., to Cairo, Ill., both inclusive.

No application for temporary authority has been filed under section 311(b).

In the opinion of the applicant, the granting of the authority sought will 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. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451(1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28842 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval

¹ Notice corrected to show correct name of river.

would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

FR Doc. 78-31185 Filed 11-2-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Energy Information Administration

CERTAIN DEPARTMENT OF ENERGY FORMS

Requirements Review of Data Currently Collected

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of a requirements review of thirteen data collection forms.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice of a requirements review of the data currently being gathered on thirteen (13) DOE forms from natural gas producers and pipelines, electric utilities, and electric power producers, and solicits comments thereto. These data collection forms were previously used by the Federal Power Commission and are now being used by the Federal Energy Regulatory Commission (FERC) and/or EIA. This action is consistent with efforts of the DOE's Regulatory Reform Task Force and the President's Reporting Burden Reduction Program, for which one of the primary goals is to reduce the reporting burden on the public.

DATE: Written comments by December 4, 1978.

ADDRESS: Submit written comments to: Director, Regulatory Systems, Development Division, 825 North Capitol Street, Room 3104D, Department of Energy, Energy Information Administration, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Regulatory Systems Development Division, Energy Information Administration, Department of Energy, 825 North Capitol Street, Room 3104D, Washington, D.C. 20426, 202-275-4910.

SUPPLEMENTARY INFORMATION: The forms (and the resultant publications) currently undergoing a requirements review are as follows:

FPC-1M, Annual Report for Municipal Electric Utilities. Publications: "Gas Turbine Plant Construction for New Electric Generating Units", "Hydroelectric Plant Construction", "Steam-Electric Plant Construction Cost and Annual Production Expenses", "List of Publicly Owned Electric Utilities", "Sales of Firm Electric Power for Resale", "Statistics of Publicly Owned Electric Utilities".

FPC-2, Annual Report of Natural Gas Companies (Class A and Class B). Publications: "Average Wholesale Gas Prices for 14 Large Metro Areas", "Gas Prepayments of Pipeline Companies", "Unauthorized Overrun Penalties Paid to Pipeline Companies", "Underground Storage of Natural Gas by Interstate Pipeline", "Depreciation Practices of Natural Gas Companies", "Sales by Producers of Natural Gas to Interstate Pipeline Companies", "Statistics of Interstate Natural Gas Pipeline Companies", "List of Natural Gas Pipeline Companies".

FPC-3, Typical Net Monthly Bills for Electrical Service. Publication: "Typical Electric Bills".

FPC-3A, All Electric Homes Data Sheet. Publication: "All Electric Homes in the United States".

FPC-4, Monthly Power Plant Report. Publications: "Electric Power Statistics", "Electric Fuel Consumed, Produced and Fuel Stocks", "National Trends in Electric Resource Use".

FPC-5, Monthly Statement of Electric Operating Revenue and Income. Publications: "Electric Power Statistics", "Power Production, Generation Capacity, Sales and Revenues", "Sales, Revenues and Income of Sales of Electric Energy to Ultimate Customers", "National Trends in Electric Resource Use".

FPC-8, Underground Gas Storage Report. Publication: "Unauthorized Overrun Penalties Paid to Pipeline Companies".

FPC-11, Natural Gas Pipeline Company Monthly Statement. Publication: "Average Prices Received and Paid by Major Pipelines for Gas Sold for Resale".

FPC-12C, Industrial Electrical Generating Capacity, Smaller Industrial Plants. Publications: "Electric Power Statistics".

FPC-14, Annual Report for Importers and Exporters of Natural Gas. Publication: "Imports and Exports of Natural Gas".

FPC-80, Licensed Projects Recreation Report. Publication: "Recreation Opportunities at Hydro Electric Projects".

FPC-314B, Annual Statement to Support Small Producer Exemptions. Publication: None.

FPC-423, Monthly Report of Cost and Quality of Fuels for Electric Plants. Publication: "Report of Cost and Quality of Fuels", "National Trends in Electric Resource Use", "Status of Coal Supply Contracts for New Electric Generating Units".

COMMENT PROCEDURES

Written Comments: Consideration will be given to any relevant comments submitted in writing with respect to this notice. Accordingly, comments are requested to be submitted no later than 30 days following publication of this notice. Any person that wishes to do so may submit written views or comments with respect to this requirements review. All comments should be addressed to Director, Regulatory Systems Development Division at the address indicated above and should be identified on the outside envelope and on the document with the designation "EIA Requirements Review." Two copies should be submitted.

Any information or data submitted which a person considers to be confidential must be so identified. Two copies of the confidential material should be provided. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

Issued at Washington, D.C. October 23, 1978.

LINCOLN E. MOSES,
Administrator, Energy
Information Administration.

[FR Doc. 78-31024 Filed 11-2-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration INTERCONNECTION, WHEELING, AND POOLING IN THE SOUTHWEST

Public Meeting

A public meeting will be held in Oklahoma City on November 29 and 30 to discuss interconnections, wheeling, and pooling in the Southwest. The focus of this meeting will be system coordination in the States of Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas. The meeting, to be held at the Sheraton Century Center Hotel, will begin at 8:30 a.m. on November 29 and will adjourn at 5 p.m. on November 30.

The purpose of the meeting is to entertain discussion and establish a broader understanding of the extent of present utility coordination of planning and operations, and opportunities for increased savings of scarce fuels and reduction of operating costs

through greater coordination in the region. Discussions will involve Federal and State regulators, representatives of public, private and cooperative utility systems, and other interested persons.

The agenda for the meeting is as follows:

First Day

8:30 a.m.—Introduction.
8:40 a.m.—Keynote Address.
9:00 a.m.—Meeting Objectives.
9:15 a.m.—Current Operating and Planning.
10:15 a.m.—Practices of Regional Utilities.
11:00 a.m.—Discussion.
12 Noon-1:15 p.m.—Lunch.
1:30 p.m.—Concerns of State Regulators and State Energy Offices (Panel—4 speakers).
3:30 p.m.—Coffee Break.
4:15 p.m.—Discussion.
5:00 p.m.—Adjourn.
Evening Session if needed.

Second Day

8:30 a.m.—Alternative Approaches to Planning and Operations (3 to 4 speakers).
10:40 a.m.—Coffee Break.
11:00 a.m.—Discussion.
12 noon-1:15 p.m.—Lunch.
1:30 p.m.—Related Department of Energy Activities (3 speakers).
3:00 p.m.—Coffee Break.
3:15 p.m.—Panel Session: Future trends in Interconnection and Pooling in the Southwest Panel, 4 panel members.
5:00 p.m.—Adjourn.

All interested parties are invited to express their views during the discussion periods and in dialogue with the panel members. Additional information may be obtained from Mr. James V. Barker, Jr., telephone 202-634-5626.

Minutes of the meeting will be made available for public inspection at the Department of Energy, Room B120, 2000 M Street NW., Washington, D.C. and 2626 West Mockingbird Lane, Dallas, Tex.

Issued at Washington, D.C., on October 26, 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator
for Utility Systems, Economic
Regulatory Administration,
Department of Energy.

[FR Doc. 78-31101 Filed 11-2-78; 8:45 am]

[3128-01-M]

Office of Assistant Secretary for International Affairs

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "Subsequent Arrangement" under the Agreement for Cooperation Between the United States and Japan: Atomic Energy for Civil Uses and the Additional Agreement for Cooperation Between the United States and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves the transfer of mixed oxide fuel pins containing 390 g of uranium enriched to 60 percent U-235 and plutonium of U.K. origin from Japan to France for use in an irradiation experiment at the CEA's Rapso-die Reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice.

For the Department of Energy.

Dated: October 30, 1978.

HAROLD D. BENGLSDORF,
Director for Nuclear Affairs,
International Programs.

[FR Doc. 78-31099 Filed 11-2-78; 8:45 am]

[3128-01-M]

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

October 10 Through October 13, 1978

Notice is hereby given that during the period October 10 through October 13, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the

Proposed Decision and Order in final form may file a written Notice of Objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text to these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

Dated: October 27, 1978.

MELVIN GOLDSTEIN,
Director, Office of
Hearings and Appeals.

*Estates of Inez and Loyce Phillips,
Gladewater, Tex., DEE-0319, natural gas
liquids*

The Estates of Inez and Loyce Phillips filed an Application for Exception from the provisions of 10 CFR 212.165. The exception request, if granted, would permit the firm to retroactively charge prices for natural gas liquids produced at its Nan-Su-Gail natural gas processing plant in excess of the maximum price levels specified in 10 CFR Part 212, Subpart K. On October 10, 1978, the DOE issued a Proposed Decision and Order to the Estates of Inez and Loyce Phillips granting partial exception relief of \$81,962.76.

*Herbell Oil Exploration Co., Corona, Calif.,
DEE-0497, crude oil*

Herbell Oil Exploration Co. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Herbell to receive upper tier ceiling prices for the crude oil which the firm will produce and sell from the Recreation Park No. 2 Well. On October 13, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Knob Noster Oil Co., Inc., Knob Noster, Mo.,
DEE-1290, propane*

The Knob Noster Oil Co., Inc. filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the assignment to Knob Noster of a new supplier of propane to replace its base period supplier. On October 13, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

*Sentry Refining, Inc., Corpus Christi, Tex.,
DEE-1459, crude oil*

Sentry Refining, Inc., filed an Application for Exception in which it requested that exception relief be approved which would provide it with an economic incentive to process California crude oil in its Corpus Christi, Tex., refinery. On October 13, 1978, the DOE issued a Proposed Decision and Order which determined that the Sentry request should be granted and that the firm should be permitted to sell additional entitlements worth \$4.59 for each barrel of California crude oil processed by the firm.

[FR Doc. 78-31100 Filed 11-2-78; 8:45 am]

[3128-01-M]

Office of Policy and Evaluation

ALCOHOL FUELS* (ECONOMICS, SUPPLY, PRODUCTION AND END USE)

Public Hearings

AGENCY: Office of Policy and Evaluation, U.S. Department of Energy.

ACTION: Notice of public hearings and opportunity for submission of written comments.

SUMMARY: The Alcohol Fuels Policy Review of the Department of Energy (DOE) announced that it will hold public hearings and receive written comments regarding the economics, supply, production, environmental impact, and end use of alcohol fuels (methanol and ethanol). These hearings will be held under the auspices of the Assistant Secretary for Policy and Evaluation of the Department of Energy.

DATES: Requests to speak due on or before November 20, 1978, 4:30 p.m. Public Hearings: November 30, 1978 (and December 1, 1978, if necessary) 9:30 a.m., in Chicago, Ill.; and December 5, 1978 (and December 6, 1978, if necessary), 9:30 a.m., in Washington, D.C.

ADDRESS: Send comments and requests to speak to: At Chicago, U.S. Department of Energy, Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604, Attention: Charles Swank. At Washington, D.C., Public Hearing Management, ERA, Room 2313, Box VY, 2000 M Street NW., Washington, D.C. 20461. Hearing locations: At Chicago, Everett McKinley Dirksen Building, Room 2502, 219 South Dearborn,

* Gasohol and other alcohol fuels (ethanol and methanol).

Chicago, Ill. 60604, At Washington, The Federal Building, 12th and Pennsylvania Avenue NW., Room 3000 A, Washington, D.C. 20461.

FUR FURTHER INFORMATION CONTACT:

Donna Stein (Staff Assistant, Alcohol Fuels Hearings), Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C., phone 202-566-9102.

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214-B, Washington, D.C. 20461, phone 202-254-5201.

Lloyd Costley (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2310, Washington, D.C. 20461, phone 202-254-8034.

Marilyn Herman (Chairperson, Alcohol Fuels Policy Review), Policy and Evaluation, Department of Energy, 12th and Pennsylvania Avenue NW., Room 4146, Washington, D.C., 20461, phone 202-566-9464.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Specific Comments Requested
- III. Public Hearing and Comment Procedures:
 - A. Written Comments
 - B. Public Hearing

I. BACKGROUND

A viable long-term, national energy policy that will reduce dependence on foreign oil in the short term and develop renewable and essentially inexhaustible sources of energy in the long term will depend in part on the development of alternative sources of liquid fuels. In this regard, the Department of Energy (DOE) has already made considerable progress in evaluating the potential of alcohol fuels. Last December a special Department-wide task force was created to address the potential of alcohol fuels. In April of 1978, that task force concluded its work and released its findings in a position paper and a more detailed report entitled the "Alcohol Fuels Program Plan."

The major findings of the task force were:

- The high costs of alcohol fuels relative to conventional sources of petroleum appear to be the major obstacle to widespread commercialization;
- Alcohol fuels are suitable fuels for the internal combustion engine, as well as gas turbine peaking units, utility boilers, industrial heating, and fuel cells. The technological problems that do remain can be overcome in a reasonable time;
- Alcohol fuels technology has progressed to the point where a broader

assessment of its commercialization potential is warranted;

• On a technical basis, ethanol is considered to have advantages over methanol because of its higher energy content, and better phase stability and volatility in gasoline blends. Ethanol, on the other hand, is a more expensive fuel than methanol.

Since the findings of the task force represented a preliminary assessment rather than a final judgment on the potential of alcohol fuels, the DOE is moving ahead to resolve the obstacles to their development and to determine what role the Federal Government should play. In this regard, the Department is currently conducting an intensive near-term review of alcohol fuels.

This near-term review is being undertaken by a Department-wide Alcohol Fuels Policy Review group, which has primary responsibility for directing a series of key policy studies affecting alcohol fuels decisions, and for preparing policy recommendations and initiatives on alcohol fuels to be integrated with the National Strategy Study. The National Energy Strategy Study is the Department's principal mechanism for evaluating alternative liquid fuel options.

The Alcohol Fuels Policy Review is addressing economics, supply, production, environmental impact, and end-use aspects of alcohol fuels. Special emphasis will be placed on acquiring information on state gasohol programs and efforts to market gasohol, the utilization of a diverse number of feedstocks for alcohol production, prospects for improving economics and improving energy balance, potential of oil import savings, and impact on the economy of reducing price supports for agricultural set-aside programs.

II. SPECIFIC COMMENTS REQUESTED

This notice is issued in order to obtain input for future Department decisions reached on alcohol fuels. The information received will plan a valuable role in assisting the Department of Energy and the Alcohol Fuels Policy Review in its efforts to formulate a responsible and viable National policy on alcohol fuels. Accordingly, it is requested that you submit any comments, views, or arguments that you may have concerning alcohol fuels. In addition, we would like to receive, insofar as possible, specific empirical data regarding the factors currently affecting economics, supply, production, environmental impact, and end use aspects of alcohol fuels.

In particular, but without limiting the scope of the information requested, we solicit your views on the following questions:

ALCOHOL FUELS: SPECIFIC QUESTIONS TO BE ADDRESSED

1. What are the benefits of using gasohol/alcohol fuels?
2. What are the preferred feedstocks for producing alcohol fuels, and what are the available quantities?
3. What would the impacts be of utilizing set-aside acreage for the production of ethanol?
4. What technologies are available or under development for producing alcohol fuels from renewable resources and coal?
5. What are the economics of producing alcohol? What are the means for reducing production costs?
6. What is the energy balance associated with alcohol fuels production, and how can it be improved?
7. What are the preferred end uses for gasohol and other alcohol fuels?
8. Can gasohol be used in existing vehicles without modification?
9. What are the environmental impacts of utilizing gasohol and other alcohol fuels?
10. What State programs are underway or planned for producing and marketing gasohol? What State subsidies exist or are planned for encouraging gasohol use?
11. What is the current excess alcohol plant capacity? What is the lead-time associated with construction of new alcohol plants?
12. What is the feasibility of attaining a 10 percent nationwide gasohol program of 90 percent gasoline/10 percent alcohol blends by 1990?
13. What are the constraints to the commercialization of alcohol fuels? How can these be overcome?
14. What is the projected impact of the recently enacted exemption for gasohol from the 4-cent Federal excise tax on gasoline?
15. What is the most appropriate role for the Federal Government to take with respect to gasohol and other alcohol fuels? Should the Department of Energy take steps to encourage the commercialization of such fuels?

III. PUBLIC HEARING AND COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in these proceedings by submitting written views, data, or arguments with respect to the matters discussed in this Notice. Comments should be submitted to the address indicated in the "Addresses" section of this Notice and should be identified on the outside envelope with the designation "Alcohol Fuels Policy Review." We request 10 copies which will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours

of 8 a.m., and 4:30 p.m., Monday through Friday.

Specific identification should be made of any information you consider to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information and treat it according to our determination.

B. PUBLIC HEARING

1. *Procedures for Requesting Participation*

The time and place of the public hearings are indicated in the "Dates," and "Addresses" section of this notice. If necessary, the hearings will be continued to 9:30 a.m. of the first business day following the date of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day

before the hearing. Since it may be necessary to limit the number of persons making such presentations, please describe your interest in this proceeding; and if appropriate, whether you represent a group or class of persons; and, to give a concise summary of your proposed oral presentation.

The Department of Energy will notify each person selected to be heard before November 24, 1978, 4:30 p.m. Persons selected to be heard should bring 100 copies (if possible) of their statement to the hearing address indicated in the "Addresses" section of this notice on the day of the hearing.

2. *Conduct of the Hearing*

The hearing will be conducted by a DOE official and will be legislative rather than adjudictory in nature. Formal discovery, subpoena of witnesses, cross-examination of participants, testimony under oath and simi-

lar formal procedures appropriate to a trial-type hearing will not be provided.

In addition to controlling the course of the hearing, the presiding DOE official may question participants in order to elicit further information, probe sensitive issues and discover the bases and sources of views.

A transcript of the hearings will be available for inspection as soon as possible after the close of the hearing at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C. on November 1, 1978.

WILLIAM P. DAVIS,
*Deputy Director
of Administration.*

[FR Doc. 78-31378 Filed 11-2-78; 11:14 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-172, Amdt. 5; Oct. 30, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the October 26, 1978, agenda.

TIME AND DATE: 10:30 a.m., October 26, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 7. Docket 25474, Petitions for reconsideration, *Hawaii Fares Investigation* and Proceedings on remand in *Continental Air Lines, Inc. v. CAB* (Memo 6432-F, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Chairman Alfred E. Kahn was not prepared to discuss this item at the October 26, 1978, meeting which only left two Members and a quorum is needed. This item will be on the November 2, 1978, agenda as item 12. Accordingly, the following Members have voted that agency business requires the deletion of this item from the October 26, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2214-78 Filed 11-1-78; 10:43 am]

[6320-01-M]

2

[M-174, Amdt. 1; Oct. 31, 1978]

CIVIL AERONAUTICS BOARD.

Notice of time change for oral argument.

TIME AND DATE: 9 o'clock, November 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral argument—Docket 21670, Frontier Airlines, Inc., subsidy mail rates.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2224-78 Filed 11-1-78; 3:41 pm]

[6320-01-M]

3

[M-175, Amdt. 2; Oct. 30, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the November 2, 1978, agenda.

TIME AND DATE: 10 a.m., November 2, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Addition: 9a. Dockets 33022, 33032, 33321, and 33387, Applications of National, Delta, Northwest and American for exemptions (Chicago/Miami-San Juan/Virgin Islands).
Deletion: 3. Docket 32318—Revised Air Freight Forwarder Rules (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Dr. Alfred E. Kahn assured several Congressmen that the Board would vote on these applications no later than the first week of November. In addition, one of the applicants has requested action by then so that it can

plan its winter schedule pattern. To meet its public commitment, item 9a is being added to the November 2, 1978, agenda. Item 3, Docket 32318—Revised Air Freight Forwarder Rules is being deleted in order to allow the staff additional time to prepare their material. Accordingly, the following Members have voted that agency business requires the addition of 9a and the deletion of 3 to the November 2 agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2225-78 Filed 11-1-78; 3:41 pm]

[6320-01-M]

4

[M-175, Amdt. 3; Oct. 30, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the November 2, 1978, meeting agenda.

TIME AND DATE: 10 a.m., November 2, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Addition: 14a. Application of Loftleidir H.F. Icelandic Airlines for amendment of its foreign air carrier permit (BAS).

Deletion: 2. docket 30356, Transcontinental Low-Fare Route Proceeding (instructions to staff) for information memo dated September 26, 1978.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Loftleidir (Icelandic) has filed an application for permit amendment to authorize service to Baltimore. The Board's order to show cause was issued October 16, 1978, and no objections have been filed. Since issuance of the final permit requires action by the President and may take as long as 60 days, consideration will be given by the Board to granting an exemption to Icelandic to authorize the operation pending issuance of the final permit. The Board meeting scheduled for Thursday, November 2, 1978, is the last remaining public meeting prior to

the desired commencement date. Item 2 is being deleted from the November 2, 1978, agenda so that the staff may have additional time for coordination. Accordingly, the following Members have voted that agency business requires the addition of item 14a and the deletion of item 2 from the November 2, 1978, agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2226-78 Filed 11-1-78; 3:41 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 7, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proliferation of Interest-Rate Futures Contract.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2222-78 Filed 11-1-78; 3:41 pm]

[6351-01-M]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:30 a.m., November 7, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matters/applications for registration as associated persons of futures commission merchants.

Policy discussion of compliance reviews and schedule of compliance reviews through the first quarter of calendar 1980.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2223-78 Filed 11-1-78; 3:41 pm]

[1410-01-M]

7

COPYRIGHT ROYALTY TRIBUNAL.

Notice of change of place.

TIME AND DATE: 10 a.m., Thursday, November 9, 1978.

PLACE: The location of the meeting has been changed to Room 1318, Dirksen Senate Office Building.

STATUS: Open.

SUBJECT: Agenda as published in 43 FR 50279, October 27, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Thomas C. Brennan, Chairman.
Copyright Royalty Tribunal, 202-653-5175.

THOMAS C. BRENNAN,
Chairman.

[S-2218-78 Filed 11-1-78; 3:41 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 and 11 a.m., Tuesday, November 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Oral arguments and closed instructions following oral arguments.

MATTERS TO BE CONSIDERED:

SUBJECT

Applications of WMUR-TV, Manchester N.H. and KECC-TV, El Centro Calif., Docket Nos. 19336 and 19338.

Renewal application of KAIT-TV, Jonesboro, Ark., Docket No. 19292.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Office, telephone 202-632-7260.

Issued: October 31, 1978.

[S-2217-78 Filed 11-1-78; 3:41 pm]

[6714-01-M]

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., November 8, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings. Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of National Central Bank, Lancaster, Pa., with Farmers' Bank of Kutztown, Kutztown, Pa.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the liquidation of First State Bank of Northern California, San Leandro, Calif.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of the Bank of Bloomfield, Bloomfield, N.J.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Hughes, Hubbard & Reed, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Taback & Hyams, Jericho, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Squire, Sanders and Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Bass, Berry & Sims, Nashville, Tenn., in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Foley & Lardner, Milwaukee, Wis., in connection with the liquidation of American City Bank & Trust Co., National Association, Milwaukee, Wis.

Memorandum and resolution proposing the publication for comment of a revision of Part 302 of the Corporation's rules and regulations, to be entitled "Development and Review of FDIC Rules and Regulations."

Memorandum proposing that the Board of Directors dismiss the Department of Justice's petition for the amendment of Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures for Insured Nonmember Banks."

Memorandum and resolution authorizing the appointment of new officers to the subsidiaries, Avenida Ponce de Leon 402 Corp. and Presidential Tower Development Corp., of the closed Banco de Ahorro de Puerto Rico, San Juan, P.R.

Memorandum proposing the payment of a fifth dividend of \$182,716.92 in connection with the receivership of Elm Creek State Bank, Elm Creek, Nebr.

Memorandum proposing the approval of an "Additional Space Agreement" in connection with the Corporation's lease of space for the San Francisco, Calif., regional office.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Liquidation detailing all disbursements in

excess of \$10,000 and all sales of real estate properties, during the period August 16-October 16, 1978, in connection with the liquidation of the Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,
202-389-4446.

[S-2219-78 Filed 11-1-78; 3:41 pm]

[6714-01-M]

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., November 8, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Montrose State Bank, a proposed new bank to be located at 900 South Townsend, Montrose, Colo., for Federal deposit insurance.

Bank of the South, a proposed new bank to be located at the intersection of Airline Highway and Commonwealth Boulevard, Baton Rouge, La., for Federal deposit insurance.

Citizens' Bank of Madras, a proposed new bank to be located at 810 4th Street, Madras, Oreg., for Federal deposit insurance.

Application for consent to establish a branch:

First Enterprise Bank, Oakland, Calif., for consent to establish a branch at 1369 Henry Street, Berkeley, Calif.

Application for consent to move a branch:

Onondaga Savings Bank, Syracuse, N.Y., for consent to move its branch office from 1227 South Salina Street to 725 Irving Avenue, both addresses within Syracuse, N.Y.

Application for consent to add subordinated capital notes to capital structure:

Bank of Mansfield, Mansfield, Ga., for consent to add \$100,000 subordinated capital notes to its capital structure.

Application for consent to the early retirement of a subordinated capital note:

Farmers Bank of the State of Delaware, Dover, Del.

Request for waiver of the qualification examination requirements of the municipal securities representative examination pursuant to Municipal Securities Rulemaking Board Rule G-3(c)(v):

United Bank of Arizona, Phoenix, Ariz.

Requests pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6)

of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Applications for consent to merge and establish branches:

Vevay Deposit Bank, Vevay, Ind., an insured State nonmember bank, for consent to merge under its charter and title with East Enterprise State Bank, East Enterprise, Ind., and for consent to establish the sole office of East Enterprise State Bank as a branch of the resultant bank.

Gardiner Savings Institution, Gardiner, Maine, and insured mutual savings bank, for consent to merge under its charter and title with Hallowell Savings & Loan Association, Hallowell, Maine, a federally insured savings and loan association, and for consent to establish the sole office of Hallowell Savings & Loan Association as a branch of the resultant bank.

American Bank of Maryland, Silver Spring, Md., an insured State nonmember bank, for consent to merge under its charter, and with the title of "First American Bank of Maryland," with Chesapeake National Bank, Towson, Md., and for consent to establish the four existing offices of Chesapeake National Bank as branches of the resultant bank.

Application for consent to merge, to establish branches, and to redeem convertible preferred stock:

Western Bank, Coos Bay, Oreg., an insured State nonmember bank, for consent to merge under its charter and title with Crater National Bank, Medford, Oreg.; for consent to establish the nine offices of Crater National Bank as branches of the resultant bank; and for advance consent to the redemption provisions of the convertible preferred stock to be issued as part of the transaction.

Application for consent to consolidate and to establish a branch:

Frankenmuth Bank & Trust, Frankenmuth, Mich., an insured State nonmember bank, for consent to consolidate under its charter and title with the Farmers & Merchants State Bank of Merrill, Merrill, Mich., and for consent to establish the sole office of the Farmers & Merchants State Bank of Merrill as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,688-L—Franklin National Bank, New York, N.Y.

Case No. 43,689-L—First National Bank of Eldora, Eldora, Iowa.

Case No. 43,690-L—Banco Credito y Ahorro Ponceno, Ponce, P.R.

Case No. 43,701-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,703-L—Banco Credito y Ahorro Ponceno, Ponce, P.R.

Memorandum re the Drovers' National Bank of Chicago, Chicago, Ill.

Memorandum re Franklin National Bank, New York, N.Y.

Memorandum re Banco Economias, San German, P.R.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions

of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary,
202-389-4446.

[S-2220-78 Filed 11-1-78; 3:41 pm]

[6740-02-M]

11

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 48813, October 19, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 6, 1978, 9 a.m. to 12 noon.

CHANGE IN THE MEETING: The meeting scheduled for November 6, 1978, at 9 a.m. has been changed to December 8, 1978, at 9 a.m.

KENNETH F. PLUMB,
Secretary.

[S-2228-78 Filed 11-1-78; 3:57 pm]

[6735-01-M]

12

NOVEMBER 1, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., November 8, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The following will be considered and acted upon by the Commission. If necessary, they will be carried over to the regularly scheduled meeting on the following day.

1. Helen Mining Co., Docket No. IBMA 77-31 (Motion To Dismiss).

2. Eastern Associated Coal Corp., Docket No. IBMA 75-25, 76-24 (Petition for Limited Intervention).

3. Staff briefing on remand in *United Mine Workers of America v. Cecil D. Andrus, Carbon Fuel Co.* No. 76-1208, D.C. Cir. May 9, 1978.

4. Staff briefing on status of transferred cases and current docket.

5. Draft of Proposed Rules implementing the Government in the Sunshine Act.

6. Proposed Rules of Procedure.

CONTACT PERSON FOR MORE INFORMATION:

Philip Paschall, 202-653-5610.

[S-2227-78 Filed 11-1-78; 3:41 pm]

[6210-01-M]

13

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, November 8, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of Kansas City.

2. Further consideration of the proposed report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of First National Bank of South Jersey, Egg Harbor Township, N.J., with First National State Bank of Central Jersey, Trenton, N.J.

DISCUSSION AGENDA

1. Board's regulatory improvement program: review of Regulations E (Purchase of Warrants), V (Guarantee of Loans for National Defense Work), and C (Home Mortgage Disclosure).

2. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling 202-452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 31, 1978.

THEODORE E. ALLISON.

[S-2213-78 Filed 11-1-78; 10:43 am]

[7020-02-M]

14

[USITC SE-78-56]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, November 16, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

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. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Wire Strand from Japan (Inv. AA1921-188)—Briefing and vote.
6. Clothespins (Inv. TA-201-36)—Vote on remedy, if necessary.
8. Any items left over from previous agenda.

Portions closed to the public:

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2221-78 Filed 11-1-78; 3:41 pm]

[7035-01-M]

15

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 7, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED:

1. Discussion on Motor Carrier Policy.
2. Briefing on Field Office Consolidations.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, 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-2229-78 Filed 11-1-78; 3:57 pm]

[7590-01-M]

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: During the week of November 6, 1978.

PLACE: Commissioners' Conference

Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

MONDAY, NOVEMBER 6; 1:30 P.M.

1. Discussion of reducing procedural cost burdens (approximately 1 hour, public meeting).
2. Discussion of licensing bill (approximately 1 hour, public meeting).
3. Discussion of proposed NRC statement in response to the Risk Assessment Review Group Report (if required, approximately 1 hour, public meeting).

TUESDAY, NOVEMBER 7; 9:30 A.M.

Briefing on report of the Interagency Review Group on Waste Management (approximately 2 hours, public meeting).

WEDNESDAY, NOVEMBER 8; 10 A.M.

Discussion of export-import licensing review procedures/general administrative meeting (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

[S-2216-78 Filed 11-1-78; 10:43 am]

[8010-01-M]

17

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 50540, October 30, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, November 1, 1978.

CHANGES IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the open meeting scheduled for Wednesday, November 1, 1978, at 10 a.m.:

Consideration of a release announcing: (1) The extension of the Lost and Stolen Securities Program's pilot period from December 31, 1978, to June 30, 1979, (b) the redesignation of Securities Information Center, Inc. ("SIC") as the Commission's designee to maintain and operate the data base of missing, lost, counterfeit or stolen securities, and (3) the reregistration of certain institutions subject to Rule 17f-1 (17 CFR 240.17f-1) with SIC. For further information, please contact Gregory C. Yadley at 202-376-8129.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

OCTOBER 31, 1978.

[S-2215-78 Filed 11-1-78; 10:43 am]

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FRIDAY, NOVEMBER 3, 1978

PART II



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Public Health Service

■

GRANTS FOR
EMERGENCY MEDICAL
SERVICES SYSTEMS

[4110-84-M]

Title 42—Public Health

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

PART 56a—GRANTS FOR EMERGENCY MEDICAL SERVICES SYSTEMS

Grants for Emergency Medical Services Systems

AGENCY: Health Services Administration, PHS, HEW.

ACTION: Final rules.

SUMMARY: These rules amend the regulations governing the program of grant assistance for emergency medical services systems authorized by title XII of the Public Health Service Act. They are being adopted in order to implement recent, largely technical, amendments to title XII.

EFFECTIVE DATE: November 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Reardon, Deputy Director, Division of Emergency Medical Services, Health Services Administration, Department of Health, Education, and Welfare, 6525 Belcrest Road, Hyattsville, Md. 20782, telephone 301-436-6284.

SUPPLEMENTARY INFORMATION: Pub. L. 94-573 made a series of amendments to title XII of the Public Health Service Act, 42 U.S.C. 300d et seq., the program of grant assistance for projects for emergency medical services systems. These amendments are primarily technical in nature, although section 3(a) of Pub. L. 94-573 also expanded the grant program authorized by section 1202 of the Act by adding two types of planning grants. The amendments to part 56a of Title 42, Code of Federal Regulations, set forth below implement these statutory amendments. The salient features of the amendments are summarized below.

SUBPART A

1. Pub. L. 94-573 added several new requirements for emergency medical services systems. For example, such systems are now required to have the capability to communicate with persons with auditory handicaps and persons of limited ability to speak English. These new program requirements are implemented by the changes to § 56a.103(c).

2. New definitions have been added to implement the provisions of the new section 1202(b). The definitions of "advance life support services" and

"basic life support services" in § 56a.102 accord, we believe, with common usage of those terms among such systems, while the definition of "medically underserved population" in § 56a.102 conforms to the definition of that term in other programs administered by the Public Health Service.

3. Several program requirements and definitions have been clarified or updated based on experience with the program and changing technical standards. See § 56a.102, definitions of "Appropriate training and experience", "Ground vehicles," and § 56a.103 (a) and (d).

4. In addition, a number of changes were made reflecting the technical amendments made by Pub. L. 94-573. See § 56a.102 with respect to definitions of "Section 1521 health planning and development agency", "Section 1515 health systems agency", and "Section 1513 health systems plan", and §§ 56a.103 (d), (k), 56a.106(f)(1).

SUBPART B

1. Pub. L. 94-573 revised the existing authority under section 1202 for feasibility and planning grants. Previously such grants were made for both studying the feasibility of and planning for the establishment and operation of emergency medical services systems "through expansion and improvement or otherwise." In practice, this has been interpreted to mean that a study and planning grant will be made for a project to establish and operate a system under section 1203 or expand and improve a system under section 1204. Section 1202(a) has been revised to clarify this (in sec. 1202(a)(1) (A) and (B) and in addition to provide for projects to study and plan for projects under sec. 1203 and sec. 1204 (sec. 1202(a)(1)(C)). The regulations reflect this statutory clarification, although the substantive program requirements remain essentially unchanged.

2. Pub. L. 94-573 added authority for projects to study the feasibility of or plan for advanced life support services for an emergency medical services system (sec. 1202(b)(1)(A)). As with grants made under section 1202(a), grantees are to produce a feasibility study or plan, as applicable, the requirements for which are similar to the analogous requirements under section 1202(a), except for the focus on advanced life support services. See § 56a.206(b).

3. Pub. L. 94-573 also added authority for grants to States to enable them to update the plans for a State emergency medical services system to improve the delivery of such services in rural areas and to medically underserved populations of the State. The regulations clarify the congressional intent, apparent in the legislative history (see S. Rep. No. 94-889 at 46),

that such grants are to be made for statewide plans. They also spell out that the planning undertaken pursuant to the grant may, where appropriate, encompass other than rural areas and medically underserved populations. As with grants under section 1202(a) and 1202(b)(1)(A), the State grantees are required to submit comprehensive plans, similar to those required of the other grantees, at the close of the grant.

SUBPARTS C AND D

1. The major revisions to subparts C and D implement statutory amendments that require additional assurances of grantees. The assurances are designed to insure that grants will be made for projects with substantial financial community support in order to maximize project viability after grant support ends. The documentation and degree of governmental and community support which these regulations require grant applicants to show is responsive to this congressional concern. See, e.g., §§ 56a.303 (i), (j), and (k); §§ 56a.404 (k), (l), and (m).

2. Pub. L. 94-573 added authority to support certain basic and short-term training of certain emergency medical personnel under sections 1203 and 1204. The training which may be supported under these sections is defined at §§ 56a.305(b)(4) and 56a.406(b)(4).

3. New reporting requirements have been added to both subpart C and subpart D in response to the amendments reflected in sections 1203(f) and 1204(e) of the Act. The legislative history of these sections indicates that Congress enacted them because it was impressed with the usefulness of the information provided by grantees under section 1202 in the reports required by that section. Consequently, the new §§ 56a.306 and 56a.408 require grantees to provide a reasonably detailed picture of their operations under the grant.

In light of the essentially technical nature of these regulations and the need for them in order to implement section 1202(b), the Secretary has determined that public comment on them and delay in their effective date are unnecessary and would be contrary to the public interest and that good cause exists for their omission.

Dated: June 28, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: October 19, 1978.

HALE CHAMPION,
Acting Secretary.

Part 56a of Title 42, Code of Federal Regulations, is revised to read as follows:

Subpart A—General

- Sec.
56a.101 Applicability.
56a.102 Definitions.
56a.103 Project requirements.
56a.104 Eligible applicants.
56a.105 Priority.
56a.106 Application.
56a.107 Grant payments.
56a.108 Inventions or discoveries.
56a.109 Publications and copyright.
56a.110 Royalties.
56a.111 Grantee accountability.
56a.112 Additional requirements.

Subpart B—Grants for Feasibility Studies and Planning

- 56a.201 Applicability.
56a.202 Eligibility.
56a.203 Content of application-supporting information.
56a.204 Grant evaluation and award.
56a.205 Use of project funds.
56a.206 Reports.

Subpart C—Grants for Establishment and Initial Operation

- 56a.301 Applicability.
56a.302 Project requirements.
56a.303 Content of application-supporting information.
56a.304 Grant evaluation and award.
56a.305 Use of project funds.
56a.306 Reports.

Subpart D—Grants for Expansion and Improvement

- 56a.401 Applicability.
56a.402 Purpose.
56a.403 Project requirements.
56a.404 Content of application-supporting information.
56a.405 Grant evaluation and award.
56a.406 Use of project funds.
56a.407 Acquisition of facilities.
56a.408 Reports.

AUTHORITY: Secs. 1202, 1203, and 1204 of the Public Health Service Act (42 U.S.C. 300d-1, 300d-2, and 300d-3).

Subpart A—General Provisions

§ 56a.101 Applicability.

The regulations of this subpart apply to grants (a) under section 1202 of the Public Health Service Act (42 U.S.C. 300d-1) for projects which include both studying the feasibility of and planning for (1) the establishment and operation of emergency medical services systems, (2) the expansion and improvement of these systems, or (3) both; (b) for the establishment and initial operation of these systems under section 1203 of the Public Health Service Act (42 U.S.C. 300d-2); and (c) for projects for the expansion and improvement of these systems under section 1204 of the Public Health Service Act (42 U.S.C. 300d-3).

§ 56a.102 Definitions.

As used in this part:

"Act" means the Public Health Service Act.

"Adequate number of easily accessible emergency medical services facilities" means that in 95 percent of the cases, at least one facility which has the minimum capabilities required by the applicable method of categorization, as described in § 56a.103(e)(1), is within 60 minutes travel time from the scene of the emergency.

"Adequate number of health professions, allied health professions, and other health personnel" means sufficient numbers of health personnel to provide emergency medical services on a 24-hour basis within the service area of the emergency medical services system.

"Adequate number of necessary ground, air, and water vehicles and other transportation facilities" means sufficient vehicles to respond to 95 percent of requests for assistance in the emergency medical services system area within 30 minutes.

"Advanced life support services" or "ALS" means implementation of the requirements of § 56a.103 throughout the emergency medical services system to a level of capability which provides both noninvasive and invasive emergency patient care designed to optimize the patient's chances of surviving the emergency situation, such as sophisticated transportation vehicles with advanced equipment, a communications capability (two-way voice and/or telemetry) and staffed by Emergency Medical Technician-Paramedics (EMT-P) providing onsite, prehospital and interhospital mobile intensive care.

"Appropriate public safety personnel" includes police, firemen, communications and dispatch specialists, park rangers, lifeguards, and other public employees charged with maintaining public safety.

"Appropriate training and experience" means at a minimum:

(1) As applied to physicians (doctors of medicine and doctors of osteopathy), possession of appropriate State qualifications to practice medicine in the State in which they provide emergency medical services.

(2) As applied to nursing and allied health professions, licensure, certification, or registration as required by their respective professions and the State in which they provide emergency medical services.

(3) As applied to ambulance personnel, completion of training appropriate to the level or emergency medical care being provided in the system's service area, as follows:

(i) In an area where the level of emergency medical care being provided is at the Basic Life Support (BLS) level, training as an Emergency Medical Technician-Ambulance (EMT-A) in accordance with standards prescribed by the Department of Transportation (Basic Training Course/

Emergency Medical Technician (2d Edition) Course Guide 1977 (DOT Pub. No. HS 802 534 through 536)); or an equivalent training program. A program will be recognized as "equivalent," only if the Secretary finds that at least 75 percent of the graduates of that program either pass the National Registry of Emergency Medical Technicians examination for Basic EMT-A within 6 months after graduation or meet applicable State requirements which are determined by the Secretary to equal or exceed Department of Transportation requirements.

(ii) In an area where emergency medical care is provided at the ALS level, training as an Emergency Medical Technician-Paramedic in accordance with a curriculum covering competencies outlined in the Course Guide, National Training Course, Emergency Medical Technician-Paramedic 1977 (DOT Pub. No. HS 802 437 through 452).

"Appropriate transportation" means a vehicle equipped to enable the emergency medical technician or more highly trained personnel to administer to the patient's needs at the scene and in transit.

"Basic life support services" or "BLS" means the implementation of the requirements of § 56a.103 throughout the emergency medical services system to a level of capability which provides noninvasive emergency patient care designed to optimize the patient's chances of surviving the emergency situation, such as universal access to and dispatch of national standard ambulances, with appropriate medical and communication equipment, operated by Emergency Medical Technicians-Ambulance, and availability of a hospital as described in § 56a.103(e)(2).

"Budget period" means one of the intervals of time (usually 12 months) into which the grant period is divided for budgetary and reporting purposes.

"Built-in equipment" means equipment which is permanently attached to the wall, floor, or ceiling or similarly restricted, including items which require (1) the modification of a facility for installation or removal, and (2) connection to utility services such as water, gas, steam, or the building ventilation system.

"Capability to communicate in the language of the predominant population groups of limited English-speaking ability" means that the system has immediate access to persons who are able to communicate in the primary languages of these population groups.

"Capability to communicate with individuals having auditory handicaps" means a system which has the sending and receiving capability of a device such as a teletypewriter through

which persons with hearing difficulties can gain access to the emergency medical services system.

"Continuing education" means courses which improve job-specific skills and knowledge, to which personnel devote more than 24 hours per year, whether or not a degree is awarded.

"Emergency medical services" or "EMS" means the services used in responding to a person's perceived need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

"Emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the 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. An "appropriate geographical area" means an area which the Secretary determines, on the basis of information contained in an application for a grant under this part and other information as he requires for purposes of this determination, to be of sufficient size, population, and economic diversity so that an efficient and economically feasible EMS system can be established, taking into consideration existing medical service areas and health service areas established under section 1511 of the Act.

"Emergency medical telephonic screening" means that the communications system is capable, under the direction of personnel with training and experience in the provision of emergency medical services, of (1) redirecting requests for assistance that appear to be non-emergent in nature; (2) directing patients to the emergency services that are most appropriate for their medical needs; and (3) dispatching the appropriate emergency resources as necessary.

"Equipment" means items which are necessary for the functioning of the EMS system, but does not include items of current operating expense or items consumed in use such as glassware, chemicals, food, fuel, drugs, paper, printed forms, books, pamphlets, periodicals, and disposable housekeeping items.

"Followup care and rehabilitation" includes physical and psychiatric care and vocational rehabilitation.

"Grant period" means any period with respect to which assistance is granted under the Act for a particular project.

"Ground vehicles" means (1) ambulances which meet the requirements in the proposed Federal specifications for emergency medical care vehicles (Federal Specification, Ambulance, Emergency Care Vehicle, General Services Administration, KKK-A-1822, June 25, 1975); and (2) vehicles suitably equipped to transfer both ambulatory and nonambulatory patients who do not need emergency care to appropriate destinations including health care, extended care, and rehabilitation facilities.

"Major repair" means those repairs to an existing building, excluding routine maintenance, which restore the building to a sound state and the cost of which is at least \$100,000.

"Medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of these services. Medically underserved areas will be designated by the Secretary through publication in the FEDERAL REGISTER from time to time, taking into consideration the following factors, among others:

(1) Available health resources in relation to size of the area and its population, including appropriate ratios of primary care physicians in general or family practice, internal medicine, pediatrics, or obstetrics and gynecology to population;

(2) Health indices for the population of the area, such as infant mortality rate;

(3) Economic factors affecting the population's access to health services, such as the percentage of the population with incomes below the poverty level; and

(4) Demographic factors affecting the population's need and demand for health services, such as percentage of the population age 65 and over.

"Modernization" means the alteration, major repair, remodeling, or renovation of existing buildings (including initial equipment of those buildings), or replacement of obsolete built-in equipment of existing buildings.

"Nonprofit," as applied to a private entity, means that no part of the net earnings of that entity benefits or may lawfully benefit any private shareholder or individual.

"Other appropriate emergency medical services systems" are those EMS systems in neighboring areas which might be involved in common disasters, those EMS systems which are contiguous with the system, and those EMS systems which have entered into agreements with the system.

"Predominant population group with limited English-speaking ability" means a group which is the majority

population in one or more neighborhoods, districts, or other identifiable portions of the system's area and which is primarily composed of persons whose limited English-speaking capability under stress or emergency conditions would impede their access to the system.

"Rural area" means any area not classified as an urbanized area by the Bureau of the Census (1970 Census of Population, Number of Inhabitants, Bureau of the Census, U.S. Department of Commerce, Dec. 1971).

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

"Section 1521 State health planning and development agency" means the agency of a State designated under section 1521(b)(3) of the Act.

"Section 1515 health systems agency" means a health systems agency designated under section 1515 of the Act.

"Section 1513 health systems plan" means a health systems plan referred to in section 1513(b)(2) of the Act.

"Specialized critical medical care units" means facilities and services specifically designed for the care of critical patients (e.g., victims of trauma, including burns and spinal cord injury; acute cardiac conditions; poisoning; acute behavioral problems, such as acute alcohol intoxication, drug overdose and psychiatric emergencies; and high risk infants).

"State" means one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"Unit of general local government" means (1) a city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; or (2) an Indian tribe.

§ 56a.103 Project requirements.

An EMS system must:

(a) Include an adequate number of health professions, allied health professions, and other health personnel, including ambulance personnel, with appropriate training and experience.

(b) Provide for its personnel appropriate training (including clinical training) and continuing education programs which are coordinated with other programs in the system's service area which provide similar training and education, and emphasize 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 in the service area. The

EMS system must use the "Military Experience Directed Into Health Careers" agency of the State or States in which it is located and the Veterans Employment Representative and the VA Hospital for the region in which it is located to recruit veterans of the Armed Forces with military training and experience in health care fields.

(c) Join the personnel, facilities, and equipment of the system by a central communications system so that requests for emergency health care services will be handled by a communications facility which uses emergency medical telephonic screening; uses (or, within the period required by the Secretary, will use) the universal emergency telephone number 911; will have direct communication connections and interconnections with the personnel, facilities, and equipment of the system and with other appropriate EMS systems; will have the capability to communicate with individuals having auditory handicaps and to communicate in the language of the predominant population groups with limited English-speaking ability in the system's service area; and makes maximum use of communications equipment and systems acquired under any highway safety program approved under chapter 4 of title 23, United States Code and of the equipment and system acquired under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701, et seq.). For the purposes of this paragraph:

(1) a "central communications system" means a system command and control center which is responsible for establishing those communication channels and providing those public resources essential to the most effective and efficient emergency medical services management of the immediate problem, and which has the necessary equipment and facilities to permit immediate interchange of information essential for the system's resource management and control. The essentials of a central communications center are that (i) all requests for system response are directed to the center; (ii) all system resource response is directed from the center; and (iii) all system liaison with other public safety and emergency response systems is coordinated from the center. Except to the extent provided in this section with respect to "emergency medical telephonic screening", the center need not direct or control medical care or treatment; and

(2) "maximum use" means that the applicant can show that it has acquired funds for the equipment and systems under the acts referred to in this paragraph.

(d) Include, making maximum use of vehicles acquired under any highway safety program approved under chap-

ter 4 of 23 U.S.C., an adequate number of necessary ground, air, and water vehicles and other transportation facilities to meet the individual characteristics of the system's service area. These vehicles and facilities must meet appropriate standards relating to location, design, performance, and equipment; and the operators and other personnel for these vehicles and facilities must meet appropriate training and experience requirements.

(1) The personnel of these vehicles and transportation facilities must include during patient transport at least two attendants trained to the emergency medical technician level, one of whom may be the vehicle operator meeting State and local requirements for operating that type of vehicle.

(2) For the purposes of this paragraph, "maximum use" means that the applicant can show that it has acquired funds for this equipment under any highway safety program approved under chapter 4 of 23 U.S.C.

(e) Include an adequate number of easily accessible emergency medical services facilities within the EMS system's service area which are collectively capable of providing services on a continuous basis, which have appropriate nonduplicative and categorized capabilities, which meet appropriate standards relating to capacity, location, personnel, and equipment, and which are coordinated with other health care facilities of the system.

(1) The capabilities of accessible emergency medical services facilities must be categorized in accordance with a formulated method of classifying hospital emergency capabilities which is found by the Secretary to be acceptable for purposes of these regulations. Examples of acceptable methods of categorization are the guidelines developed by the American Medical Association (Recommendations of the Conference on the Guidelines for the Categorization of Hospital Emergency Capabilities, AMA, 1971) and systems of categorization having a similar purpose developed under applicable State law.

(2) The system's service area must contain at least one hospital which has a physician on duty in the emergency department 24 hours a day and which has a written working agreement with other hospitals offering greater emergency capabilities.

(f) Provide access (including appropriate transportation) to specialized critical medical care units in the EMS system's service area, or, if there are none of these units or an inadequate number of them in the service area, provide access to specialized critical medical care units in neighboring areas if access to those units is feasible in terms of time and distance.

(g) Provide for the effective use of the appropriate personnel, facilities, and equipment of each public safety agency providing emergency services in the EMS system's service area. For the purposes of this paragraph, "effective use" of personnel, facilities, and equipment of public safety agencies means the integration of public safety agencies into standard and disaster operating procedures of the areawide system, including the shared use of personnel and equipment particularly suited to use in medical emergencies, such as helicopters and rescue boats.

(h) Be organized in a manner that provides persons who reside in the EMS system's service area and who have no professional training or financial interest in the provision of health care with an adequate opportunity to participate in the making of policy for the system.

(i) Provide, without prior inquiry as to ability to pay, necessary emergency medical services to all patients requiring these services.

(j) Provide for transfer of patients to facilities and programs which offer followup care and rehabilitation as is necessary to bring about maximum recovery by the patient.

(1) The EMS system must provide a method for assuring that these transfers are consistent with accepted medical practice to serve the best interests of the patient and are not based on financial considerations alone.

(2) The vehicle used in the transfer of patients to these facilities and programs must be suitably equipped to meet the patient's intransit needs.

(k) Provide for a coordinated patient recordkeeping system. Patient records must cover the treatment of the patient from initial entry into the EMS system through his discharge from it, and must be consistent with patient records used in followup care and rehabilitation of the patient. For the purposes of this paragraph, a "coordinated patient recordkeeping system" means compatible records and forms throughout the EMS system's service area which facilitate the collection, organization, and storage of identified data elements. The forms must provide the data which the Secretary may require in guidelines, in the manner which the Secretary may require, for the purpose of obtaining comparable national data upon which to evaluate the impact of the Emergency Medical Services Systems Act (Pub. L. 93-154, as amended).

(l) Provide programs of public education and information in the system's service area (taking into account the needs of visitors to, as well as residents of, that area to know or be able to learn immediately the means of obtaining emergency medical services). These programs must stress the gener-

al dissemination of information regarding appropriate methods of medical self-help and first-aid and information regarding the availability of first-aid training programs in the area.

(m) Provide information as the Secretary may require to conduct periodic, comprehensive, and independent reviews and evaluations of the extent and quality of the emergency health care services provided in the EMS system's service area, and submit to the Secretary the results of any review or evaluation which may be conducted by the system of the extent and quality of these services in the service area.

(n) Have a plan to assure that the EMS system will be capable of providing emergency medical services in the system's service area during mass casualties, natural disasters, or national emergencies. The system disaster plan must be tested at least once before completion of each budget period of a grant under sections 1203 or 1204 of the Act.

(o) Provide for the establishment of appropriate arrangements with EMS systems or similar entities serving neighboring areas for the provision of emergency medical services on a reciprocal basis where access to these services would be more appropriate and effective in terms of the services available, time and distance. Any such arrangements among EMS systems or similar entities serving neighboring areas must be written agreements, signed by individuals authorized to act for the respective parties with respect to these agreements, and must be reviewed and reevaluated at least once a year.

§ 56a.104 Eligible applicants.

The following are eligible to apply for a grant under this part:

- (a) A State;
- (b) A unit of general local government;
- (c) A public entity administering a compact or other regional arrangement or consortium; or
- (d) Any other public entity and any nonprofit private entity.

§ 56a.105 Priority.

In considering applications submitted under this part, the Secretary will give priority to applications submitted by the eligible applicants described in paragraphs (a), (b), and (c) of § 56a.104.

§ 56a.106 Application.

(a) An application for a grant under this part must be submitted to the Secretary at the time and in the form required by the Secretary.

(b) The application must be made by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the

statute, the applicable regulations of this part, and any additional conditions of the grant.

(c) The application must contain a budget and narrative plan of the manner in which the applicant intends to conduct the project and carry out the requirements of this part. The application must describe the project in sufficient detail to identify clearly the nature, need, specific objectives, plan and methods of the project.

(d) The application must contain a description of the manner in which funds available under other Federal programs are being used to develop particular components of the EMS system and the manner in which these funds will continue to be used for that purpose.

(e) The application must contain a description of applicable provisions of law or regulations which restrict the full use of the training and skills of health personnel in the provision of emergency medical services.

(f) The application must contain or be supported by a written statement from the applicant that it agrees to maintain the records and make the reports to the Secretary and the Interagency Committee on Emergency Medical Services which are required by the Secretary in guidelines.

(g) The application must contain or be supported by assurances satisfactory to the Secretary that the applicant will conduct the project in cooperation with (1) each section 1515 health systems agency whose section 1513 health systems plan covers or will cover (in whole or in part) the service area of the project, and (2) any EMS council or other entity responsible for review and evaluation of the provision of emergency medical services in the service area of the project. For the purposes of this section, an Emergency Medical Services (EMS) council must be (i) a public agency, or (ii) a formally established or recognized advisory body of an eligible entity.

(h) The application must indicate that (1) the section 1521 State health planning and development agency, organization responsible for administration of the State EMS program, and State EMS Council of each State in which the service area of the EMS system for which the application is submitted will be located, (2) each section 1515 health systems agency whose section 1513 health systems plan covers or will cover (in whole or in part) the service area of the system, (3) any regional EMS or other entity responsible for review and evaluation of the provision of emergency medical services in the service area of the project, and (4) the appropriate clearinghouses under OMB Circular No. A-95, have had a reasonable opportunity of not less than 60 days (measured from

the date a copy of the application was submitted to the agency or council by the applicant), to review and comment on the application. In addition, the section 1521 and 1515 agencies must be provided with a copy of the final application at the time the application is submitted to the Secretary. These agencies may submit comments concerning the application to the Secretary, with a copy of these comments to the applicant.

(i) In the case of an application submitted by a public entity administering a compact or other regional arrangement or consortium, the application must contain or be supported by assurances satisfactory to the Secretary that the compact or other regional arrangement or consortium includes each unit of general local government of each standard metropolitan statistical area (as determined by the Office of Management and Budget) located (in whole or in part) in the service area of the EMS system for which the application is submitted.

(j) In the case of an application submitted by an entity described in paragraph (d) of § 56a.104, the application must contain or be supported by assurances satisfactory to the Secretary that the entity:

(1) Has provided a copy of its application to each entity described in paragraphs (a), (b), and (c) of § 56a.104 which is located (in whole or in part) in the service area of the EMS system for which the application is submitted; and

(2) Has provided each of these entities a reasonable opportunity of at least 30 days (measured from the date a copy of the application was submitted to the entity by the applicant) to submit to the Secretary comments concerning the application.

(k) The application must contain or be supported by written statements which demonstrate to the satisfaction of the Secretary that there is broadly based community support for carrying out the project, including support from both providers and consumers of emergency medical services and from public safety agencies, health education institutions, appropriate private groups or other organizations in the service area of the project.

§ 56a.107 Grant payments.

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

§ 56a.108 Inventions or discoveries.

A grant award is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. These regulations apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures must be taken by the grantee and by the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the support activity are aware of and comply with grant obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries must be maintained for the periods, and filed with or otherwise made available to the Secretary at the times and in the manner as he may determine necessary to carry out these Department regulations.

§ 56a.109 Publications and copyright.

Where the grantee is not a State or local government as defined in 45 CFR 74.3, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright, without prior approval, any publications, films, or similar materials developed or resulting from a project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of these materials and to authorize others to do so.

§ 56a.110 Royalties.

Royalties received by grantees from copyrights on publications or other works developed under the grant, must be accounted for as follows:

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

(1) Used by the grantee for any purposes that further the objectives of the Act.

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

(b) 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.

§ 56a.111 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary must be recorded by the grantee in accounting records separate from the records of all other grant 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 direct and indirect costs meeting the requirements of this part. However, 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 the predetermined fixed-percentage rates applied to the total, or a selected element of the total, of the reimbursable direct costs incurred.

(b) *Accounting for interest earned on grant funds.* In accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in section 102, must return all interest earned on grant funds to the Federal Government.

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

(2) *Final settlement.* A 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 under paragraph (a) of this section;

(ii) Any credits for earned interest under paragraph (b) of this section; and

(iii) Any other amounts due under subparts F, M, and O of 45 CFR Part 74.

This total sum constitutes a debt owed by the grantee to the Federal Government and must be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 56a.112 Additional requirements.

(a) *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 part to States and local governments as those terms are defined in subpart A of 45 CFR Part 74. The relevant provisions of the following subparts of part 74 also apply to grants to all other grantee organizations under this part: 45 CFR Part 74

Subpart

A General.

B Cash Depositories.

C Bonding and Insurance.

D Retention and Custodial Requirements for Records.

F Grant-related Income.

G Matching and Cost Sharing.

K Grant Payment Requirements.

L Budget Revision Procedures.

M Grant Closeout, Suspension, and Termination.

O Property.

Q Cost Principles.

(b) *Confidentiality.* All information as to personal facts and circumstances obtained by the project staff must be held confidential, and must not be disclosed without the individual's consent except as may be required by law or as may be necessary to provide service to the individual. Information may be disclosed in summary, statistical, or other form which does not identify particular individuals.

(c) *Nondiscrimination.* Recipients of grants under this part are advised that, in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 845 of the Act (42 U.S.C. 298b-2) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the ground of race, color, or national origin).

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(d) *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 additional conditions are necessary to assure or protect advancement of the approved project, the interests of public health, or the conservation of grant funds.

Subpart B—Grants for Feasibility Studies and Planning

§ 56a.201 Applicability

The regulations of this subpart, in addition to the regulations of subpart A of this part, are applicable to—

(a) Grants awarded under section 1202(a) of the Act for projects to study the feasibility of and plan for—

(1) The establishment and operation of an emergency medical services system;

(2) The expansion and improvement of such a system; or

(3) Both (1) and (2).

(b) Grants awarded under section 1202(b)(1)(A) of the Act for projects to study the feasibility of, or plan for, the expansion and improvement of such a system to provide for the use of ALS techniques therein.

(c) Grants awarded under section 1202(b)(1)(B) of the Act for projects to update the plan of a State emergency medical services system to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

§ 56a.202 Eligibility

(a) *Section 1202(a) grants.* A grant under section 1202(a) of the Act may be made to an entity described in section 1206(a) of the Act.

(b) *Section 1202(b) grants.* (1) A grant under section 1202(b)(1)(A) of the Act may be made to an entity described in section 1206(a) of the Act.

(2) A grant under section 1202(b)(1)(B) of the Act may be made only to a State for a statewide emergency medical services system for which a grant under section 1202(a) of the Act has already been made.

(c) *Limitations on succeeding grants.* (1) If the Secretary makes a grant under section 1202(a) of the Act or section 1202(b)(1)(A) of the Act for a particular geographic area, he may not make another grant under such section for a system for such area or for an area which includes such area in whole or substantial part.

(2) If the Secretary makes a grant under section 1202(b)(1)(B) of the Act for an emergency medical services system of a State, he may not make another grant under such section for a system which includes all or a substantial part of such State.

(3) For the purpose of this paragraph, a "substantial part" of any geographic area means more than 40 percent of such area.

§ 56a.203 Content of application—supporting information.

(a) *All grants.* In addition to meeting the applicable requirements of § 56a.106, an approvable application for a grant under section 1202 of the Act must contain the following:

(1) A narrative and graphic description of the area involved in the project, including geographical features, population, distribution of medical personnel, medical facilities (including critical care units and emergency departments), climate, epidemiological characteristics, socio-economic conditions, and any other relevant factors;

(2) A description of the staff of the project, including their qualifications, authority, functions, numbers, assignments, and the manner in which they are organized to carry out the proposed project;

(3) A description, appropriate to the type of grant applied for and in such detail as the Secretary may require, of the specific study and/or planning objectives which the project intends to accomplish, including specifically the development of an emergency medical services system which will meet each of the requirements of § 56a.103 of subpart A of this part;

(4) Information as to how the project plans to attain its study or planning objectives, including a description of the methods, personnel, facilities, budget, responsible operational unit, and work schedule which will be utilized in order to accomplish each stated objective;

(5) The following budget and staffing information:

(i) Identification of all actual and potential staff positions and the estimated compensation for such positions;

(ii) Identification of those costs for which Federal assistance under this subpart is requested and the amount thereof; and

(iii) The percentage of the budget which will be devoted to the needs of rural areas;

(6) Information which satisfies the Secretary that adequate facilities, equipment, and financial resources in addition to the grant requested will be available at the time of the grant award; and

(7) Any other statistical information which the Secretary may prescribe in guidelines, and in such form as the Secretary may so prescribe.

(b) *Section 1202(a) grants.* In addition to the requirements of paragraph (a), an application for a grant under section 1202(a) of the Act must contain information as to the existence and extent of the need for an emergency medical services system in the project area. The need of the area should be described in detail with particular reference to the requirements

for an emergency medical services system as described in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part.

(c) *Section 1202(b)(1)(A) grants.* In addition to the requirements of paragraph (a), an application for a grant under section 1202(b)(1)(A) of the Act must contain:

(1) Information, in such detail as the Secretary may require, as to the existence and extent of development of the emergency medical services system in the project area and the need for advanced life support services.

(2) A planning approach for development of data and analysis of the need to expand or improve emergency medical services in the project area to provide for advanced life support.

(d) *Section 1202(b)(1)(B) grants.* In addition to the requirements of paragraph (a), an application for a grant under section 1202(b)(1)(B) of the Act must contain a planning approach, in such detail as the Secretary may prescribe, utilizing emergency medical services within and outside of the rural areas and medically underserved populations to be served by the planned emergency medical services system.

§ 56a.204 Grant evaluation and award.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to those applicants whose projects will, in his judgment, best promote the purposes of section 1202 of the Act and the regulations of this subpart, taking into account:

(1) The extent of the need for emergency medical services in the service area of the proposed project;

(2) The capability of the applicant to carry out the proposed project;

(3) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(4) The extent of coordination with existing health planning agencies and groups in the service area of the proposed project;

(5) The potential of the project for accomplishing its objectives and fulfilling the purposes of the emergency medical services systems grant program; and

(6) The degree to which the proposed project addresses the needs of rural areas.

(b) The amount of any award under this part will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(1) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(2) On the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary. *Provided, however,* That no grant will be made for an amount which exceeds:

(i) In the case of a grant under section 1202(a), \$60,000;

(ii) In the case of a grant under section 1202(b), \$30,000; except where the Secretary determines that a larger amount is necessary to support a project of special regional or national significance which would not be accomplished without a grant under this subpart in such larger amount.

(c) All grant awards shall be in writing, shall set forth the amount of funds granted, and the period for which support is recommended.

(d) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make additional, supplemental, continuation, or other award with respect to any approved project or portion thereof.

§ 56a.205 Use of project funds.

Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in accordance with section 1202 of the Act, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed in Subpart Q of 45 CFR Part 74.

§ 56a.206 Reports.

Each grant awarded pursuant to section 1202 of the Act shall be subject to the condition that the grantee shall file with the Secretary and the Interagency Committee on Emergency Medical Services such progress and other reports as the Secretary may require, including the following:

(a) Section 1202(a) grants.

(1) Report of feasibility study.

(i) At a time specified by the Secretary which shall be not later than three months after the award of the grant, the grantee shall submit to the Secretary a report of the feasibility study shall contain:

(A) A detailed statement indicating whether, in the judgment of the

grantee, it is feasible to establish, expand, or improve, as applicable, an emergency medical services system in the service area of the project.

(B) Information derived from studies as to the organizational structure, current resources, geographical area, and existing and contemplated standards of the proposed emergency medical services system.

(ii) If the Secretary determines, on the basis of the report of the feasibility study and other information relevant to such determination, that it is not feasible to establish, expand, or improve, as applicable, an emergency medical services system for the project area, the Secretary may, after reasonable notice to the grantee, terminate the grant.

(2) *Final report.* Should the grantee determine that it is feasible to establish, expand, or improve (as applicable) an emergency medical services system for the service area of the project, the grantee shall, within 12 months from the date of the grant award, submit to the Secretary a final report, in the form of a planning outline, which contains the following information:

(i) A comprehensive description of the organizational structure which will manage the emergency medical services system;

(ii) a detailed description of current emergency medical services, resources and capability;

(iii) a narrative and graphic description of the project area, including geographic, demographic, climatological, epidemiological, and socioeconomic characteristics;

(iv) a description of actual and potential standards for emergency medical services, including methods and levels of performance;

(v) a description of the objectives of the project, identifying problems and needs and establishing priorities for achieving such objectives;

(vi) A description of the projected medical services capability that will exist at the completion of the plan, including types of services, status of subsystems, and nature of community involvement;

(vii) A detailed description of the methodology which will be employed in order to achieve each of the objectives of the project;

(viii) A schedule for the implementation of the plan;

(ix) A fiscal schedule containing estimated expenditures and justification therefor; and

(x) A description of the methods which will be used to evaluate the operation of the planned emergency medical services system and the effect of such system on the patients involved.

(b) Section 1202(b)(1)(A) grants.

(1) *Feasibility study grants.* The grantee shall submit within 12 months from the date of grant award a final report of the feasibility study which shall contain, in such detail as the Secretary may require, an assessment of whether it is feasible to expand or improve an emergency medical services system in the service area of the project.

(2) *Planning grants.* The grantee shall submit within 12 months of the date of grant award a final report, which shall include:

(i) A comprehensive plan, in such detail as the Secretary may require, to improve and expand the existing emergency medical services system to provide advanced life support services.

(ii) A cost effectiveness study projecting utilization of the improved advanced life support services and the sources of revenue available to support such services after the completion of Federal funding under this part.

(iii) A budget schedule for completion of the plan.

(iv) A time schedule for implementation of the plan.

(v) Approval of the plan by the regional emergency medical services system entity or entities, as appropriate, and each of the major public, private, and volunteer organizations to be involved in the implementation of the plan.

(c) *Section 1202(b)(1)(B) grants.* The grantee shall submit within 12 months of the date of grant award a final report, which shall include:

(1) A comprehensive plan, in such detail as the Secretary may require, to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

(2) A statement of assignment of responsibilities under the plan to governmental and other units within the State.

(3) A budget schedule for completion of the plan, including a statement of funding sources to be used to continue operation of the improved services after cessation of Federal funding under this Part.

(4) A time schedule for implementation of the plan.

(5) Concurrence in the plan of the major governmental units to be affected by the plan. For purposes of this subparagraph, "major governmental units" means counties, portions of a county with 50 percent or more of the county's population, and municipalities with populations of or over 50,000.

Subpart C—Grants For Establishment and Initial Operation

§ 56a.301 Applicability.

The regulations of this subpart, in addition to the regulations of subpart A of this part, are applicable to grants awarded pursuant to section 1203 of the Act for the establishment and initial operation of emergency medical services systems.

§ 56a.302 Project requirements.

(a) An application under this subpart will not be approved by the Secretary unless (1) the applicant demonstrates to the satisfaction of the Secretary that the emergency medical services system for which the application is submitted will meet each of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within the total period of eligibility for assistance under this subpart; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require; and

(2) The applicant provides in the application a plan satisfactory to the Secretary for the system to meet each of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within the period described in subparagraph (1) of this paragraph.

(b) *Provided*, That if an applicant submits an application for a grant under this subpart and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within any specific period of time, the prerequisites prescribed in paragraph (a) of this section shall not apply with respect to such requirement (or requirements), and the applicant shall provide in the application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

(c) In the approval of applications involving (1) the inability of an emergency medical services system to meet one or more of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within the total period of eligibility for assistance under this subpart, or (2) the inability of such a system to meet one or more of such requirements within any specific period of time, the Secretary will take into con-

sideration the effects such inability will have on the capacity of the system to provide effective emergency medical services.

§ 56a.303 Content of application—supporting information.

An approvable application for a grant under section 1203 of the Act shall contain the following information:

(a) A comprehensive description of the organizational structure which will manage the emergency medical services system;

(b) A detailed description of current emergency medical services resources and capability;

(c) A narrative and graphic description of the project area, including geographic, demographic, climatological, epidemiological, and socioeconomic characteristics;

(d) A description of actual and planned standards for emergency medical services, including methods and levels of performance;

(e) A description of the objectives of the project, identifying problems and needs and establishing priorities for achieving such objectives;

(f) A description of the projected emergency medical services capability that will exist at the completion of the project, including types of services, status of subsystems, and nature of community involvement;

(g) A detailed description of the methodology which will be employed in order to achieve each of the objectives of the project;

(h) A schedule for the implementation of the project;

(i) Assurances of the participation in and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(1) For the purposes of this section, an assurance shall consist of a document, signed by an official with full authority to act on behalf of the public, private, or volunteer organization and entity, committing resources to the operation of the emergency medical services system.

(2) For the purposes of this section, "public, private, and volunteer organizations and entities essential to the effective provision of emergency medical services in the system's service area" include, but are not limited to, providers of emergency medical services, such as emergency departments, critical care units, ambulance services, and public safety agencies.

(j) *First grants*. Applications for a first grant under this section must be accompanied by assurances from the executive or legislative governmental

bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of each such bodies' support of and cooperation with the system.

(1) For the purposes of this paragraph, an assurance shall consist of a document, such as a formal resolution, proclamation, or other act of such governmental body, stating the body's intention to cooperate with and support the system.

(2) For the purposes of this paragraph, "political subdivisions located in the system's service area which govern a substantial portion of the population residing in such area" means political subdivisions which collectively govern a majority of the population within the EMS area; except that if the applicant demonstrates to the satisfaction of the Secretary that the support and cooperation of political subdivisions which serve less than a majority of the population within the EMS area will not adversely affect the future viability of the system, the Secretary may deem the requirement of this paragraph satisfied.

(k) *Second grants*. A second grant may be made under this subpart for an emergency medical services system if—

(1) The Secretary determines, after a review of at least its first 9 months' activities under the first grant, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan under section 1206(b)(4) of the Act; and

(2) The application for the second grant includes:

(i) A specific plan for the step-by-step achievement of compliance with each of the requirements of section 1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i); and

(ii) Assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies' continued support and cooperation with the system, and financial support of the system, in the year after the conclusion of the period of support under the grant, sufficient to maintain the system at the level at which such system is to be maintained during the period of the grant.

(A) For the purposes of this paragraph, "financial support of the system" means adequate funds for operation and maintenance of the State or regional entity responsible for the coordination, management, or operation of emergency medical services in the system's service area, and oper-

ation and maintenance of the operational and support components in both the prehospital and in-hospital phases of a total EMS system.

(B) For the purposes of this paragraph, "political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area" shall have the meaning given it in paragraph (j)(2) of this section.

(l) A fiscal schedule containing estimated expenditures and justification therefor;

(m) A description of the methods which will be used to evaluate the operation of the planned emergency medical services system and effect of such system on the patients involved; and

(n) Any other statistical information which the Secretary may prescribe in guidelines and in such form as the Secretary may so prescribe.

§ 56a.304 Grant evaluation and award.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to those applicants whose projects will, in his judgment, best promote the purposes of section 1203 of the Act and the regulations of this subpart, taking into account:

(1) The extent of coordination with statewide emergency medical services systems;

(2) The extent of the need for emergency medical services in the service area of the proposed project;

(3) The capability of the applicant to carry out the proposed project;

(4) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(5) The extent of coordination with existing health planning agencies and groups in the service area of the proposed project;

(6) The potential of the project for accomplishing its objectives and fulfilling the purposes of the emergency medical services systems grant program;

(7) The potential of the project for becoming a self-supporting emergency medical services system; and

(8) The degree to which the proposed project addresses the needs of rural areas.

(b)(1) The amount of any award under this part will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(i) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(ii) On the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee, for provisional items has been determined by the Secretary.

Provided, however, That such amount shall not represent a percentage of the total cost of the project as determined by the Secretary pursuant to these regulations which exceeds the applicable maximum percentage of Federal participation specified in section 1203(c)(4) of the Act. In determining the grantee's share of project costs, costs borne by Federal funds, or costs used to match other Federal grants may not be included except as otherwise provided by law.

(2) In determining the amount of any grant under this subpart, the Secretary will evaluate the availability of funds under Federal programs authorized by laws other than the Act to support any particular component of an emergency medical services system. Such Federal programs shall include programs under legislative authorities administered by other Federal agencies, such as the Highway Safety Act and the Omnibus Crime Control and Safe Streets Act. On the basis of such evaluation, the Secretary will provide assistance under this subpart only to the extent that assistance under such other legislative authorities is insufficient to enable the applicant to meet the qualitative and quantitative requirements for an emergency medical services system as described in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part.

(c) All grant awards shall be in writing, shall set forth the amount of funds granted, and the period for which support is recommended.

(d) Neither the approval or any project nor any grant award shall commit or obligate the United States in any way to make additional, supplemental, continuation, or other award with respect to any approved project or portion thereof.

§ 56a.305 Use of project funds.

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in performance of the approved project, shall be expended solely for carrying out the approved project in accordance with section 1203 of the Act, the regulations of this part, the terms and conditions of the

award, and the applicable cost principles set forth in 45 CFR Part 74.

(b) Project funds may not be used for the following:

(1) Construction of new facilities.

(2) Acquisition of facilities.

(3) Purchasing built-in hospital equipment which will be used more than 25 percent of the time for non-emergency department purposes.

(4) Establishment, operation, or improvement of services or facilities involved in the care of patients in the normal hospital environs or in any other care facility, except for those which are customarily associated with the emergency department.

(5) Financial assistance to students for stipends, tuition and fees, per diem, or other reimbursement for food, lodging, etc. Domestic travel of trainees may be supported at the rate of eight cents per mile when justified as a necessary and integral part of an approved training program.

(6) Hospitalization costs normally borne by the patient.

(7) Acquisition of receiving and sending devices for particular individuals with auditory handicaps.

§ 56a.306 Reports.

Each grant awarded under section 1203 of the Act is subject to the condition that the grantee shall file with the Secretary and the Interagency Committee on Emergency Medical Services such progress and other reports as the Secretary may require, including the following:

(a) *Quarterly performance reports.* Within 30 days following the end of each calendar quarter (except when an annual performance report is required pursuant to paragraph (b) of this section), a quarterly performance report, which shall contain:

(1) A concise summary of the most significant achievements and problems during the grant report period.

(2) A comparison of progress with goals established for the quarter, using the grantee's implementation schedule; and where such goals were not met, a statement of why they were not met.

(3) Other pertinent information, such as changes in management organization, progress made in implementing the requirements of § 56a.103 of subpart A, regionalization of emergency medical services, relevant legislation, and appropriation of State and local funds for emergency medical services activities.

(b) *Annual performance report.* Within 60 days following the end of the budget period, an annual performance report, which shall contain:

(1) A summary of the major activities supported under the grant and the major accomplishments resulting from

activities to improve emergency medical services in the region.

(2) A narrative description of the system's status at the conclusion of the grant, including organizational, management and operational aspects of the prehospital and in-hospital activities.

(3) A description of the specific objectives included in the grant application and the accomplishments and failures resulting from the activities during the grant period.

(4) A review of the system's resources for basic and advanced life support services including levels of training, transportation vehicles, communications capability, emergency departments, and critical care units.

(5) A review of the basic process measures and changes in these measures associated with the operation of emergency medical services systems.

(6) A narrative statement describing compliance of the grantee's operations with the plans set forth in the application.

(7) A review and evaluation of the changes in patient care categories in terms of impact and outcome activities as appropriate to the grant support of activities.

(8) A review of how grant funds were used.

(c) *Final report.* No later than 1 year after the completion of the final grant under section 1203 of the Act, a final report, which shall contain a more substantive examination of the material required in paragraph (b)(1)-(8) of this section.

Subpart D—Grants for Expansion and Improvement

§ 56a.401 Applicability.

The regulations of this subpart, in addition to the regulations of subpart A of this part, are applicable to grants awarded pursuant to section 1204 of the Act for the expansion and improvement of emergency medical services systems.

§ 56a.402 Purpose.

The purpose of a project for which a grant is made pursuant to section 1204 of the Act shall be (a) the expansion and improvement of an existing emergency medical services system's capabilities to meet the requirements of section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part, or (2) the expansion of an existing system to cover geographical areas or population groups not previously served by such system.

§ 56a.403 Project requirements.

(a) An application under this subpart will not be approved by the Secretary unless (1) the applicant demonstrates to the satisfaction of the Secre-

tary that the emergency medical services system for which the application is submitted will meet each of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within the total period of eligibility for assistance under this subpart; except that if the applicant demonstrates to the satisfaction of the Secretary the inability of the applicant's emergency medical services system to meet one or more of such requirements within such period, the period (or periods) within which the system must meet such requirement (or requirements) is such period (or periods) as the Secretary may require; and

(2) The applicant provides in the application a plan satisfactory to the Secretary for the system to meet each of the requirements specified in section 1206(b)(4)(C) of the Act, and § 56a.103 of subpart A of this part within the period described in subparagraph (1) of this paragraph:

(b) *Provided,* That if an applicant submits an application for a grant under this subpart and demonstrates to the satisfaction of the Secretary the inability of the system for which the application is submitted to meet one or more of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within any specific period of time, the prerequisites prescribed in paragraph (a) of this section shall not apply with respect to such requirement (or requirements), and the applicant shall provide in the application a plan, satisfactory to the Secretary, for achieving appropriate alternatives to such requirement (or requirements).

(c) In the approval of applications involving (1) the inability of an emergency medical services system to meet one or more of the requirements specified in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part within the total period of eligibility for assistance under this subpart, or (2) the inability of such a system to meet one or more of such requirements within any specific period of time, the Secretary will take into consideration the effects such inability will have on the capacity of the system to provide effective emergency medical services.

§ 56a.404 Content of application—supporting information.

An approvable application for a grant under section 1204 of the Act shall contain the following information:

(a) A comprehensive description of the organizational structure which will manage the improved and expanded emergency medical services system;

(b) A detailed description of current emergency medical services system and capability;

(c) A short narrative and graphic description of the project area, including geographic, demographic, climatological, epidemiological, and socio-economic characteristics;

(d) A description of the existing standards for emergency medical services, including methods and levels of performance;

(e) A description of the objectives of the project, describing specifically which aspects of the emergency medical services system must be improved and expanded in order for the system to meet each of the requirements of section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part;

(f) A description of the projected emergency medical services capability that will exist after improvement and expansion of the system, including types of services, status of subsystems, and nature of community involvement;

(g) A detailed description of the methodology which will be employed in order to achieve each of the objectives of the project;

(h) A schedule for the implementation of the project;

(i) A fiscal schedule containing estimated expenditures and justification therefor;

(j) A description of the methods which will be used to evaluate the operation of the improved and expanded emergency medical services system and the effect of such system on the patients involved; and

(k) Assurances of the participation in and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system's service area.

(1) For the purposes of this paragraph, an assurance shall consist of a document, signed by an official with full authority to act on behalf of the public, private, or volunteer organization and entity, committing resources to the operation of the emergency medical services system.

(2) For the purposes of this paragraph, "public, private, and volunteer organizations and entities essential to the effective provision of emergency medical services in the system's service area" include providers of emergency medical services, such as emergency departments, critical care units, ambulance services, and public safety agencies.

(1) *First grants.* Applications for a first grant under this section must be accompanied by—

(1) A specific plan for the step-by-step achievement of compliance with each of the requirements of section

1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i); and

(2) Assurances, evidenced by copies of formal resolutions, proclamations or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of their support and cooperation with the system and endorsement and support of a specific financial plan which provides for the maintenance of the financial support of the system, after the conclusion of the grant, at the level of expanded or improved activity to be achieved during the period of the grant.

(i) For the purposes of this paragraph "political subdivisions located in the system's service area which govern a substantial portion of the population residing in such area" means political subdivisions which collectively govern a majority of the population within the EMS area; except that if the applicant demonstrates to the satisfaction of the Secretary that the support and cooperation of political subdivisions which serve less than a majority of the population within the EMS area will not adversely affect the future viability of the system, the Secretary may deem the requirement of this paragraph satisfied.

(ii) For the purposes of this paragraph, the financial plan shall include—

(A) A budget, with a breakdown of grant funds by system component and State or regional entity responsible for the coordination, management, or provision of emergency medical services in the system's service area;

(B) A summary, by source, of financial support for the system after grant support is ended; and

(C) Written endorsements of the plan from each projected source of financial support identified under subparagraph (ii)(B), signed by an official with full authority to act on behalf of such source.

(m) *Second grants.* A second grant may be made under this subpart for an emergency medical services system if—

(1) The Secretary determines, after a review of at least its first 9 months' activities under the first grant, that the applicant is satisfactorily progressing in the establishment and operation of the system in accordance with the plan under section 1206(b)(4) of the Act.

(2) The application for the second grant includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts, of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the popula-

tion residing in such area, that substantial progress is being made toward achieving the financial plan described in paragraph (1)(2) of this section. For purposes of this subparagraph, "political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area" shall have the meaning given it in subparagraph (1)(2)(i) of this section.

(n) Any other statistical information which the Secretary may prescribe in guidelines, and in such form as the Secretary may so prescribe.

§ 56a.405 Grant evaluation and award.

(a) Within the limits of funds determined by the Secretary to be available for such purpose, the Secretary may award grants under this subpart to those applicants whose projects will, in his judgment, best promote the purposes of section 1204 of the Act and the regulations of this subpart, taking into account:

(1) The extent of the need for improved and expanded emergency medical services in the service area of the system;

(2) The capability of the applicant to carry out the proposed project;

(3) The reasonableness of the budget and the soundness of the fiscal plan for assuring effective utilization of grant funds;

(4) The extent of coordination with existing health planning agencies and emergency medical services providers, in the service area of the system;

(5) The potential of the project for accomplishing its objectives and fulfilling the purposes of the emergency medical services grant program;

(6) The potential of the project for becoming self-supporting; and

(7) The degree to which the proposed project addresses the needs of rural areas.

(b)(1) The amount of any award under this part will be determined by the Secretary on the basis of his estimate of the sum necessary for a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either:

(i) On the basis of the estimate of the actual indirect costs reasonably related to the project; or

(ii) On the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount proper-

ly expended by the grantee for provisional items has been determined by the Secretary.

Provided, however, That such amount shall not represent a percentage of the total cost of the project as determined by the Secretary pursuant to these regulations which exceeds the applicable maximum percentage of Federal participation specified in section 1204(b)(2) of the Act. In determining the grantee's share of project costs, costs borne by Federal funds, or costs used to match other Federal grants may not be included except as otherwise provided by law.

(2) In determining the amount of any grant under this subpart, the Secretary will evaluate the availability of funds under Federal programs authorized by laws other than the Act to support any particular component of an emergency medical services system. Such Federal programs shall include programs under legislative authorities administered by other Federal agencies, such as the Highway Safety Act and the Omnibus Crime Control and Safe Streets Act. On the basis of such evaluation, the secretary will provide assistance under this subpart only to the extent that assistance under such other legislative authorities is insufficient to enable the applicant to meet the qualitative and quantitative requirements for an emergency medical services system as described in section 1206(b)(4)(C) of the Act and § 56a.103 of subpart A of this part.

(c) All grant awards shall be in writing, shall set forth the amount of funds granted, and the period for which support is recommended.

(d) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make additional, supplemental, continuation, or other award with respect to any approved project or portion thereof.

§ 56a.406 Use of project funds.

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in performance of the approved project, shall be expended solely for carrying out the approved project in accordance with section 1204 of the Act, the regulations of this part, the terms and conditions of the award, and the applicable cost principles set forth in 45 CFR Part 74.

(b) Project funds may not be used for the following:

(1) Construction of new facilities.

(2) Purchasing built-in hospital equipment which will be used more than 25 percent of the time for non-emergency department purposes.

(3) Establishment, operation, or improvement of services or facilities involved in the care of patients in the normal hospital environs or in any

other care facility, except for those which are customarily associated with the emergency department.

(4) Financial assistance to trainees for stipends, tuition and fees, per diem, or other reimbursement for food, lodging, etc. Domestic travel of trainees may be supported at the lesser of 10 cents per mile or the grantee's formal travel policy when justified as a necessary and integral part of an approved training program.

(5) Hospitalization costs normally borne by the patient.

(6) Acquisition of receiving and sending devices for particular individuals with auditory handicaps.

§ 56a.407 Acquisition of facilities.

The following provisions are applicable to the acquisition of existing facilities:

(a) Estimated costs of acquisition and remodeling: Suitability of facility. Each application for a project involving the acquisition of existing facilities shall include in the detailed estimates of the cost of the project the cost of acquiring such facilities to serve the purposes for which they are acquired. Such application shall demonstrate to the satisfaction of the Secretary that the architectural, structural, and other pertinent features of the facility, as modified by any proposed expansion, remodeling, renovation, or alteration, will be clearly suitable for the purposes of the program, and, to the extent of the costs in which Federal participation is requested, are not in excess of what is necessary for the services proposed to be provided in such facilities.

(b) Determination of necessary cost. The necessary cost of acquisition of existing facilities shall be determined on the basis of such documentation submitted by the applicant as the Secretary may prescribe (including the reports of such real estate appraisers as the Secretary may approve) and other relevant factors.

(c) Bona fide sale. Federal participation in the acquisition of existing facilities is on condition that such acquisition constitutes a bona fide sale involving an actual cost to the applicant and will result in additional or improved facilities for purposes of the program.

(d) Facility which has previously received Federal grant. No grant for the acquisition of a facility which has previously received a Federal grant for construction, acquisition, or equipment shall serve either to reduce or restrict the liability of the applicant or any other transferor or transferee from any obligation of accountability imposed by the Federal Government by reason of such prior grant.

§ 56a.408 Reports.

Each grant awarded under section 1204 of the Act is subject to the condition that the grantee shall file with the Secretary and the Interagency Committee on Emergency Medical Services such progress and other reports as the Secretary may require, including the following:

(a) *Quarterly performance reports.* Within 30 days following the end of each calendar quarter (except when an annual performance report is required pursuant to paragraph (b) of this section), a quarterly performance report, which shall contain:

(1) A concise summary of the most significant achievements and problems during the grant report period.

(2) A comparison of progress with goals established for the quarter, using the grantee's implementation schedule; and where such goals were not met, a statement of why they were not met.

(3) Other pertinent information, such as changes in management organization, progress made in implementing the requirements of § 56.103 of subpart A, regionalization of emergency medical services, relevant legislation, and appropriation of State and local funds for emergency medical services activities.

(b) *Annual performance report.* Within 60 days following the end of the budget period, an annual performance report, which shall contain:

(1) A summary of the major activities supported under the grant and the major accomplishments resulting from activities to improve emergency medical services in the region.

(2) A narrative description of the system's status at the conclusion of the grant, including organizational management and operational aspects of the prehospital and in-hospital activities.

(3) A description of the specific objectives included in the grant application and the accomplishments and failures resulting from the activities during the grant period.

(4) A review of the system's resources for basic and advanced life support services including levels of training, transportation vehicles, communications capability, emergency departments, and critical care units.

(5) A review of the basic process measures and changes in these measures associated with the operation of emergency medical service system.

(6) A narrative statement describing compliance of the grantee's operation with the plans set forth in the application.

(7) A review and evaluation of the changes in patient care categories in terms of impact and outcome activities as appropriate to the grant support of activities.

(8) A review of how grant funds were used.

(9) A review of the status of implementation of the financial plan described in § 56a.404(1)(2).

(c) *Final report.* No later than 1 year after the completion of the final grant under section 1204 of the Act, the grantee shall submit a final report, which shall contain a more substantive examination of the material required in paragraph (b)(1)-(9) above.

[FR Doc. 78-30410 Filed 11-2-78; 8:45 am]

Registered Product

FRIDAY, NOVEMBER 3, 1978

PART III



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Food and Drug
Administration



SKIN BLEACHING
PRODUCTS FOR OVER-
THE-COUNTER HUMAN
USE

Establishment of a Monograph

[4110-03-M]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

[21 CFR Part 358]

[Docket No. 78N-0065]

**SKIN BLEACHING DRUG PRODUCTS FOR
OVER-THE-COUNTER HUMAN USE**

Establishment of a Monograph; Notice of
Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish conditions under which over-the-counter (OTC) skin bleaching drug products are generally recognized as safe and effective and not misbranded. The proposed rule, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the Food and Drug Administration's ongoing review of OTC drug products.

DATES: Comments by February 1, 1979, and reply comments by March 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

**FOR FURTHER INFORMATION
CONTACT:**

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fisher Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Pursuant to part 330 (21 CFR Part 330), the Commissioner of Food and Drugs received on December 12, 1977 a report of the Advisory Review Panel on OTC Miscellaneous External Drug Products. On April 17, 1978, the Panel made a technical change which is discussed later in this document. (See part II, paragraph A.1. below—Introduction.) In accordance with § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner is issuing (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC skin bleaching drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph on the basis of a determination by the Panel that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; and (3) the conclusions and recommendations of the Panel to the Com-

missioner. The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

This report is the first of several to be issued by this Panel. This report pertains to products claimed to lighten dark pigment in the skin. Future reports by this Panel will cover other drug product categories described and published in the FEDERAL REGISTER notices of November 16, 1973 (38 FR 31677) and August 27, 1975 (40 FR 38179).

The purpose of issuing the unaltered conclusions and recommendations of the Panel is to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The Commissioner has not yet fully evaluated the report; the Panel's findings are being issued as a formal proposal to obtain public comment before the agency reaches any decision on the Panel's recommendations. The report has been prepared independently of the Food and Drug Administration (FDA). It represents the best scientific judgment of the members but does not necessarily reflect the agency position on any particular matter contained in it. After careful review of all comments submitted in response to this proposal, the Commissioner will issue a tentative final regulation in the FEDERAL REGISTER to establish a monograph for OTC skin bleaching drug products.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2)), all data and information concerning OTC skin bleaching drug products submitted for consideration by the Advisory Review Panel have been handled as confidential by the Panel and FDA. All such data and information shall be put on public display at the office of the Hearing Clerk, Food and Drug Administration, after December 4, 1978, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests of confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510), (address given above).

Based upon the conclusions and recommendations of the Panel, the Commissioner proposes the following:

1. That the conditions included in the monograph, under which the drug products would be generally recognized as safe and effective and not misbranded (category I), be effective 30 days after the date of publication of the final monograph in the FEDERAL REGISTER.

2. That the conditions excluded from the monograph because they

would cause the drug to be not generally recognized as safe and effective or to be misbranded (category II), be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph in the FEDERAL REGISTER, regardless of whether further testing is undertaken to justify their future use.

In the FEDERAL REGISTER of January 5, 1972 (37 FR 85), the Commissioner announced a proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels. In the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), the Commissioner published the final regulations providing for the OTC drug review under § 330.10 which were made effective immediately. Pursuant to these regulations, the Commissioner issued in the FEDERAL REGISTER of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requests for data and information on all active ingredients utilized in OTC miscellaneous external drug products.

The Commissioner appointed the following Panel to review the data and information submitted and to prepare a report pursuant to § 330.10(a)(1) on the safety, effectiveness, and labeling of those products:

William E. Lotterhos, M.D., Chairman
Rose Dagirmanjian, Ph.D.
Vincent J. Derbes, M.D. (resigned July 1976)
George C. Cypress, M.D.
Yelva L. Lynfield, M.D. (appointed October 1977)
Harry E. Morton, Sc.D.
Marianne N. O'Donoghue, M.D.
Chester L. Rossi, D.P.M.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on February 23 and 24, April 20 and 21, June 27 and 28, August 15 and 16, September 28 and 29, November 9 and 10, 1975; January 18 and 19, February 20 and 21, April 2 and 3, May 16 and 17, July 11 and 12, October 8 and 9, November 12 and 13, 1976; January 14 and 15, February 27 and 28, April 3 and 4, June 5 and 6, June 25, August 5 and 6, September 30, October 1, and December 11 and 12, 1977.

Two nonvoting consultants, Albert A. Belmonte, Ph.D. and Jon J. Tanja, M.S., R. Ph., served on the Panel beginning in February 1977.

Four nonvoting liaison representatives served on the Panel. Marvin M. Lipman, M.D., nominated by an ad hoc group of consumer organizations, served as the consumer liaison. Gavin Hildick-Smith, Ph.D., who served as industry liaison from January until August 1975, and Bruce Semple, M.D., who served as industry liaison from August, 1975 until June, 1978, were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and

Fragrance Association, also served as an industry liaison.

The following FDA employees served: John M. Davitt, served as Executive Secretary until August 1977, followed by Arthur Auer. Thomas D. DeCillis, R. Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy. Joseph Husson, R. Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D.

The following individuals were given an opportunity to appear before the Panel to express their views either at their own or the Panel's request on all drug categories under review:

Phillip R. Brachman, D.P.M.
Billy C. Coats, R. Ph.
David L. Cram, M.D.
Stanley I. Cullen, M.D.
R. Sherman Detrick
Chester DeZell
Frank E. Dunlap, M.D.
Eugene M. Farber, M.D.
Beverly W. Foster
Dietrich Hoffman, Ph. D.
M. Kaminsky
Adam Kara, D.P.M.
Renate Kimbrough, M.D.
Leslie M. Lueck, Ph. D.
Robert Menzer, Ph. D.
William Mueller
Sigfrid A. Muller, M.D.
M. W. Rosenthal
Robert Scheuplein
Frederick Urbach, M.D.
Peyton E. Weary, M.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and the various data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through December 12, 1977, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel's findings with respect to OTC skin bleaching drug products are set out in three categories:

Category I. Conditions under which OTC skin bleaching drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC skin bleaching drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel did not classify any conditions for OTC skin bleaching drug products in category III.

I. SUBMISSION OF DATA AND INFORMATION

The agency, in an attempt to make this review as extensive as possible and to aid manufacturers and other inter-

ested persons, compiled a list of ingredients found in OTC skin bleaching drug products through either historical use or from currently marketed products. Seven ingredients were identified as follows: Ammoniated mercury, ginseng, glycerylparaminobenzoic acid, hexachlorophene, hydroquinone, iodochlorhydroxyquin, and oxyquinoline sulfate. Notices were subsequently published in the FEDERAL REGISTER of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients as used in OTC skin bleaching drug products.

A. SUBMISSIONS BY FIRMS

Pursuant to the above notices, the following firms made submissions related to the indicated products:

Firms and Marketed Products

Chattem Drug & Chemical Co., Chattanooga, Tenn. 37409, Ultra Nadinola Cream, Deluxe Nadinola Complexion Cream, Derma Blanch, Nadinola Double Care Lotion.
Nicholas Products Ltd., Slough Bucks, England SL1 4AU, Ambi Skin Cream.
Plough Inc., Memphis, Tenn. 38151, Atra Skin Tone Cream.
USV Pharmaceutical Corp., Tuckahoe, N.Y. 10707, Esoterica Regular, Esoterica Facial, Esoterica Fortified, Esoterica Lotion, Esoterica Special, Golden Peacock Bleach Cream.

B. LABELED INGREDIENTS CONTAINED IN MARKETED PRODUCTS SUBMITTED TO THE PANEL

Amyl dimethyl-PABA
Glyceryl-PABA
Hydroquinone

C. ADDITIONAL INGREDIENTS CONSIDERED BY THE PANEL FOR WHICH NO DATA WERE SUBMITTED

Ammoniated mercury
Ginseng
Hexachlorophene
Iodochlorhydroxyquin
Oxyquinoline sulfate

D. CLASSIFICATION OF INGREDIENTS

1. Active ingredients:

Ammoniated mercury
Hydroquinone

2. Inactive ingredients:

Ginseng
Hexachlorophene
Iodochlorhydroxyquin
Oxyquinoline sulfate

3. Ingredients deferred to other OTC advisory review panels or other experts:

Amyl dimethyl-PABA
Glyceryl-PABA

E. OTC VOLUME SUBMISSIONS

All "OTC volumes" refer to the submissions made by interested persons pursuant to the call for data notices published in the FEDERAL REGISTER of

November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). The volumes will be put on public display after December 4, 1978, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

II. SKIN BLEACHING DRUG PRODUCTS

A. GENERAL DISCUSSION

1. *Introduction.* As part of its review, the Panel was charged to evaluate data and information on the safety, effectiveness, and labeling of OTC skin bleaching drug products. The Panel reviewed submissions from four pharmaceutical companies.

The Panel has evaluated the only claimed active ingredient that was contained in all the products submitted for review. That single active ingredient was hydroquinone. The call for data by FDA listed seven active ingredients, one of which was hydroquinone. The remaining six ingredients were not present in any product submitted for review.

The Panel finds that these products are designed to bleach or otherwise lighten limited areas of hyperpigmented skin through a direct effect on the structure and function of the body, i.e., by the suppression of melanin pigment formation within skin cells. The Panel has classified all products of this type as drugs because the skin can be bleached or lightened, a desirable effect in many circumstances and conditions, only by a direct effect on the melanin pigment within skin cells, and because this effect is generally accomplished by the suppression of specific enzyme activity within the cell.

One company's line of products contained hydroquinone combined with sunscreen agents. These sunscreen agents were deferred to the Advisory Review Panel on OTC Topical Analgesic Drug Products, including Antirheumatic, Otic, Burn, Sunburn Prevention and Treatment Drug Products.

Skin bleaching drug products are intended to bleach or otherwise lighten limited areas of hyperpigmented skin. This effect should be noticeable in the majority of users within 2 months. The substance should not permanently injure the skin or produce systemic toxicity to the user. The Panel found hydroquinone to be safe and effective ingredient when used under the conditions specified. (See part II, paragraph B.1. below—category I labeling.)

Hyperpigmentation may result from a variety of causes. Endocrine imbalances such as Addison's disease, Cushing's disease, hyperthyroidism, pregnancy, or estrogen therapy will affect skin pigmentation. Metabolic alterations affecting the liver such as hemochromatosis, biliary cirrhosis, certain glycogen storage diseases, and

porphyria cutanea tarda are often associated with a diffuse melanosis. Rheumatoid arthritis has also been associated with alterations in pigmentation. Certain antineoplastic drugs such as busulfan, cyclophosphamide, and procarbazine have been known to produce a melanosis. Chlorpromazine in chronic high dosage and some antimalarials, such as chloroquine and hydroxychloroquine, have also been implicated. These drugs are known to have an affinity for melanin. Nutritional deficiencies such as kwashiorkor and sprue as well as vitamin deficiencies of niacin and cyanocobalamin may occasionally produce melanosis. Physical trauma to the skin such as friction, heat, various actinic radiations, allergic, sensitizers, photosensitizers, infectious agents, and many other factors which contribute to an inflammatory dermatitis may also contribute to a postinflammatory pigmentation (Ref. 1).

OTC skin bleaching drug products are useful in certain hyperpigmentation conditions that are benign and amenable to self-medication, such as melasma (the mask of pregnancy), freckles, and senile lentigines ("liver spots" and "age spots"). These conditions are troublesome or cosmetically unappealing to the patient, but are not symptoms of an underlying pathological condition requiring initial diagnosis and subsequent monitoring by a physician. For example, melasma, also known as chloasma, is a condition in which blotchy patches occur on the face, due to a hormonal imbalance caused by pregnancy or oral contraceptives. These blotches occasionally coalesce to form the "mask of pregnancy" (Ref. 2). Senile lentigines appear on sun-exposed areas of the skin at the menopause or male climacteric, but are not indicative of any hormonal disorder.

Because there is no literature to support use of skin bleaching drug products in children, the Panel concludes that they should not be recommended for use on children under 12 years of age.

The Panel concludes that several weeks of treatment are required for depigmentation. The Panel further concludes that sun exposure is to be avoided by the use of a sunscreen agent, a sun blocking agent, or protective clothing if pigmentation is not to reoccur (Refs. 3 and 4). Thus, the Panel recommended including the following warning in the labeling for skin bleaching drug products, "Use of a sunscreen on treated areas of the skin should be continued indefinitely in order to prevent darkening from reoccurring." During their April 17, 1978, meeting, the Panel was asked by the agency to clarify this warning. After considerable discussion the Panel

voted to amend the warning to read as follows: "WARNING: Sun exposure should be avoided indefinitely by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin in order to prevent darkening from reoccurring."

The Panel concluded that this warning was the most important warning for skin bleaching drug products and recommended that it appear as the first warning on package labeling and that it be conspicuously boxed and in red letters. The discussion of this change was recorded in the minutes of that meeting (Ref. 5).

2. *Ingredients reviewed in addition to submitted data.* The Panel, in addition to reviewing the submitted ingredients, reviewed all other ingredients listed in the agency's notice published in the FEDERAL REGISTER of August 27, 1975, calling for data and information on ingredients used in skin bleaching drug products for potential skin bleaching activity.

Hexachlorophene is listed in the current "United States Pharmacopeia" as a topical anti-infective (Ref. 6). The Panel has been unable to locate data and information on the use of hexachlorophene as a skin bleaching agent.

Iodochlorhydroxyquin was listed in the "United States Pharmacopeia XVIII" (Ref. 7) and the "National Formulary XIII" (Ref. 8). The "Merck Index IX" and "Remington's Pharmaceutical Sciences XV" also list iodochlorhydroxyquin as a topical anti-infective (Refs. 9 and 10). Again, no mention is made of its use as a skin depigmenting agent.

Oxyquinoline sulfate, also known as 8-quinolol sulfate, oxine sulfate, 8-hydroxyquinoline sulfuric acid salt, quinolol, and chinolol, is listed in the "Merck Index" and "Remington's Pharmaceutical Sciences" as a topical anti-infective. It has been used as an antiseptic, antiperspirant, and deodorant, but no mention is made of skin bleaching properties (Refs. 11 and 12).

The Panel concludes that these ingredients have been incorporated in various skin bleaching preparations as pharmaceutical aids, i.e., preservatives.

Ginseng is not listed in any of the current compendia and the Panel has been unable to locate data and information relevant to its use in OTC skin bleaching drug products.

3. *Advertising.* The Panel's approval of an active ingredient or combination of active ingredients for a particular indication should not be interpreted as unique to the active ingredient or to the combination. Labeling, package inserts, or advertising should not refer to such approval either directly or by inference as a unique or an exclusive endorsement of such an ingredient or combination of ingredients.

The Panel is aware that the FDA does not regulate the advertising of OTC drug products. However, the Panel recommends that advertising for these drugs in any medium be consistent with the labeling claims in the proposed monograph. It follows that labeling and advertisements should, therefore, be closely monitored by the proper authority to ensure that advertisements do not go beyond the limitations of the monograph and/or negate restrictions and warnings recommended by the Panel.

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B. CATEGORIZATION OF DATA

1. *Category I conditions under which skin bleaching active ingredients are generally recognized as safe and effective and are not misbranded.* The Panel recommends that the category I conditions be effective 30 days after the date of publication of the final monograph in the FEDERAL REGISTER.

Category I Active Ingredient

The Panel has classified the following skin bleaching active ingredient as safe and effective and not misbranded:

Hydroquinone. The Panel concludes that hydroquinone is safe and effective for OTC use as a skin bleaching drug product as specified in the dosage and labeling sections below.

Hydroquinone is one of a group of three isomeric dihydroxybenzenes, in which the two hydroxyl groups are para to each other, that is in the 1, 4 positions (Ref. 1). The traditional method of manufacture involves the oxidation of aniline to quinone with manganese dioxide, followed by reduction of the quinone to hydroquinone with metallic iron and water. Commercial variations have been used in which alkaline permanganate was used as the oxidant, and several variations of the reduction step have been reported. A radically new route has been attributed to a United States petroleum refiner, involving a direct parallel to the now well-proven cumene hydroperoxide route to phenol. In this instance the intermediate is 1,4-dilso-propylbenzene, which is subjected to peroxidation and cleavage, yielding the desired hydroquinone product and acetone (Ref. 1).

Hydroquinone is extensively used as a photographic developer and in various processes which require an antioxidant. The derived antioxidants are particularly effective in preventing rancidity in fats and, therefore, find widespread use in foodstuffs. Miscellaneous applications in medicinals and dyestuffs account for about 20 percent of the total production of hydroquinone. Various derivatives of hydroquinone, mostly ethers, such as hydroquinone monomethyl ether, dimethyl ether, aminohydroquinone, dibutyl ether, and di(betahydroxyethyl) ether are articles of commerce. Other hydroquinone derivatives include such compounds as ditert-butyl hydroquinone. In general, the hydroquinone derivatives find utility through the oxidation-reduction reactions involving the reversible shift from the hydroquinone to the quinone configuration. In aqueous solutions this reaction is both rapid and quantitative, comparable to the reactions between ferrous and ferric ions (Ref. 1).

The raw materials from which hydroquinone is manufactured are processed by gravity under heat and pressure through various mixing and distilling vats, filter presses, and weighing machines, and the pure compound emerges in the packing room. Although ventilation is provided and the system is enclosed, fumes and dust particles escape into the atmosphere of the plant and produce lesions (Ref. 2). These lesions are described below. (See pt. II, par. B.1.(1) below—Safety.)

(1) *Safety.* In chronic toxicity studies, Stern, Lang, Brewer, and Carlson (Ref. 3) reported the effects of hydroquinone in "3 groups of 40 rats each of which were fed varying amounts of hydroquinone with citric acid and compared with a control group. After 2 years on test, 7 control rats, 10 rats fed 0.1 percent hydroquinone plus 0.01

percent citric acid, 11 rats fed 0.5 percent hydroquinone 0.01 percent citric acid, and 20 rats fed 1 percent hydroquinone plus 0.01 percent citric acid were still alive" (Ref. 3). The data on body weight, tibial length, WBC, RBC, and differential count revealed no significant differences among the groups, indicating no toxicity at these levels.

Lang, Brewer, and Carlson (Ref. 4) studied 19 adult human volunteers. Two men ingested 500 milligrams (mg) of hydroquinone daily for 5 months, 11 men and women ingested 300 mg daily for 5 months, and an additional 3 subjects ingested 300 mg daily for 3 months. Periodic blood and urine analyses were made throughout the duration of the experiments. None of the subjects showed any toxicity during the course of the experiments, and in no case did the analyzed data deviate significantly from accepted human norms.

In December 1975, Findlay, Morrison, and Simson in South Africa (Ref. 5) reported the development of ochronosis and pigmented colloid milium from hydroquinone bleaching creams. Hydroquinone creams are reportedly much sought after by South African black women. The effectiveness of hydroquinone creams was tested on South African black women seeking to bleach their skin. The author took pictures and compared the bleached face with the untreated natural dark brown of the neck or dorsal surface of the hand.

In this study, the authors noted that the facial epidermis overcame the bleaching effect during treatment and might grow darker than normal, particularly over sun-irradiated areas. The darkening tended to be most intense over those parts where the cream had been rubbed in well. Thereafter, novel changes developed in the papillary dermis. The dermal layer became ochronotic, with colloid degeneration and colloid milia production. These alterations could be observed in treated skin, parts of which retained a bleached appearance, though as a rule the initial bleaching effect of the cream was lost. Some manufacturers have included a sunscreen in the cream, but for those patients who were in the sun much the incorporation of the sunscreen did not prevent the deeper changes in the papillary dermis.

The striking development of the pigmented colloid milia in which the face has spots the size and color of caviar was first recognized by Alan Menter as cited by Findlay, Morrison, and Simson (Ref. 5). Analyses of the bleaching creams involved revealed that they contained approximately 5 percent and more of hydroquinone. In 6 of 35 patients, a blue tint was ob-

served in the cavity of the external ear, due to ochronosis.

In patients reexamined after a year or more, the dermatosis was not significantly altered. Some improvement may have resulted from termination of treatment with the products, or from the use of a sunscreen by day and a steroid cream at night, but in general the changes were not strikingly reversed. In one case followed for 5 years, the milia were successfully removed with a skin graft knife, leaving a mildly hyperpigmented skin.

Forty-eight skin specimens were studied histologically. The main lesions occurred in the papillary layer of the dermis which showed foci containing ochronosis, elastosis, abnormal collagen with colloid degeneration, colloid milia pigmentary changes, telangiectasia with stretched plexus vessels around the tissue expansions, and sundry interstitial changes. Between the abnormal foci and below them there was no pathology, and epidermal changes were unspectacular (Ref. 5).

Ochronosis was common to all specimens in the study. The most striking ochronotic elements were broad stumpy fibers, parallel sided, curled or banana shaped, tending to transverse fracture, with jagged or pointed ends. Solar elastosis was often seen associated with ochronosis.

The interpretation was that the melanocytes had probably overcome the damaging influence of hydroquinone and were overactive. Prolonged application of the drug under conditions of sun exposure appears to lead in this result. Since changes in the dermis were not seen during the normal bleaching action of hydroquinone, the appearance of changes after melanocyte recovery suggested that the selective and damaging uptake of hydroquinone by melanocytes had ceased, and that the drug, with any of its chemical and metabolic derivatives, was then absorbed into the dermis (Ref. 5).

The Panel concludes that prolonged use of high concentrations (5 percent or more) of hydroquinone with exposure to the sun may produce disfiguring effects. These effects have not been reported at lower concentrations.

Arndt and Fitzpatrick (Ref. 6) reported that depigmentation from hydroquinone is limited and transient, while complete and progressive loss of pigmentation may occur from monobenzone (hydroquinone monobenzyl ether). In concentrations of 2 and 3 percent hydroquinone, no sensitivity reactions developed. An inflammatory reaction may develop after the first few weeks of treatment, but is often so mild that it may go unrecognized in heavily pigmented skin. The occurrence of inflammation makes subsequent lightening more likely. The re-

action is similar clinically to that which occurs during monobenzone treatment, but differs from the monobenzone reaction in that it has never been followed by a progressive loss of pigmentation due to destruction of the melanocytes. This study did not include the treatment of postinflammatory hyperpigmentation by following, for example, photosensitization reactions, lichen planus, or dermatitis caused by reaction to drugs. The use of hydroquinone for depigmenting the above conditions should never be considered without a cautious therapeutic trial on a limited, inconspicuous area. The earlier the treatment is begun with hydroquinone for depigmentation of minor skin blemishes, the more likelihood there is of a satisfactory cosmetic result. Repigmentation always occurred after treatment had been stopped. Darker lesions repigmented more rapidly than lighter lesions.

The Meironsky effect (long wavelengths of ultraviolet light darkening melanin already present in the skin) may be a significant factor in reducing the effectiveness of hydroquinone depigmentation. Because of this, in practice it is recommended that the patient be advised to use a sunscreen cream or protective clothing during the day and hydroquinone ointment at night.

Arndt and Fitzpatrick (Ref. 6) prepared hydroquinone as a 2 or 5 percent cream which subjects applied twice daily. In most instances, only limited areas of a lesion were treated, i.e., half the face or one extremity. Only in this fashion could results be accurately documented for the patients served as their own control. Patients were examined at approximately monthly intervals. If no effect was discernible after 3 months, treatment was discontinued.

The use of 5 percent hydroquinone cream was accompanied by a high incidence of primary irritant reactions. At the lower concentration (2 percent cream), the drug appeared to be as effective; however, there were fewer side effects at the 2 percent than at the 5 percent concentration.

Decrease in skin color usually became noticeable after 4 weeks of treatment, but the rate of depigmentation was so variable that the time of onset of changes ranged from 3 weeks to 3 months.

Approximately four out of every five patients showed a skin lightening response to hydroquinone cream. Twelve percent of the patients were blacks; no difference was noted between their skin reaction and that of whites. Normal skin surrounding areas of vitiligo and abnormally pigmented skin such as that of melasma responded equally well. Before treatment, the le-

sions were bilaterally symmetrical. The patient's right cheek remained untreated throughout, while the cream was applied to the left cheek twice daily for 1 month. Subsequent exposure to ultraviolet light resulted in a return of normal pigmentation to the pretreatment level.

Few side effects were noted. Occasionally, patients complained of burning or stinging after applying the cream, and in some instances lesions became slightly darker before they faded. Three patients noted that their fingernails became temporarily discolored. In one instance, confetti-like depigmentation appeared over areas of melasma during treatment with hydroquinone. This patient had previously used hydroquinone monobenzyl ether. Thirty-two percent of the patients using 5-percent hydroquinone cream noted erythema and tingling at the site of application. Eight percent of those using 2 percent cream had similar reactions, but in none was the reaction severe enough to necessitate discontinuing the drug. In only one instance did the possibility of allergic sensitization arise. This patient's skin, which had previously reacted to 5-percent hydroquinone, was patch tested with both the 2 percent and the 5 percent cream. After 48 hours, the patch tests were positive and a generalized eczematous eruption had appeared.

Arndt and Fitzpatrick (Ref. 6) found that hydroquinone was a moderately effective depigmenting agent in 44 of the 56 cases they studied. When it was used in 2 percent concentration, the incidence of side effects was negligible. In one patient, a questionable leukoderma developed. The effectiveness of hydroquinone appeared to depend on the type of hypermelanosis and the cooperation of the patient. Patients were instructed to avoid sunlight, and during the summer months to use 15 percent para-aminobenzoic acid in a cream base to block the tanning of the skin. A major problem in preventing solar pigmentation remains, however, even after the usual sunscreens have been applied because the wavelengths that produce tanning and pigment-darkening extend into the visible spectrum. To block this spectrum, one would have to use a broad spectrum sunscreen such as an opaque sunscreen.

Hydroquinone cream did not lead to complete disappearance of the pathological hypermelanosis; evidence of the original pigmentary disturbance could ordinarily be discerned after its use. Results were satisfactory enough, however, to help most patients become less self-conscious about their abnormalities of melanin pigmentation.

In spite of the known pharmacological action of hydroquinone, workers exposed to large amounts do not

become depigmented. Depending on the length of exposure, workers may show a reddish discoloration of hair and exposed skin, especially of the palms and soles (Ref. 6).

Velhagen (Ref. 7) found hydroquinone factory workers with lesions of the conjunctiva and cornea of varying degrees. He observed that if he placed a crystal of hydroquinone on filter paper previously saturated with alkaline tear drops, a brownish stain developed rapidly. He reasoned that small crystals of hydroquinone came in contact with the cornea and were there changed to paraquinone, which has the dark brown color. He also noted that paraquinone increased the pain threshold, permitting a greater exposure to the harmful agent without discomfort, thus setting up a vicious cycle.

In 1947, Anderson (Ref. 2) reported his observations on 41 workers in a hydroquinone plant. He and his coworkers found, in confirmation of Velhagen's observations, that the degree of loss of sensation is proportionate to the degree of staining of the cornea.

The changes seen in the eyes of the hydroquinone factory workers mentioned above would appear to be of two types, i.e., deposition of pigment in the conjunctiva and cornea, and opacification of the superficial portion of the cornea.

The deposit of pigment occurs in the form of spherules of various sizes. It is most prominent in the eyes of older patients and is to be observed in regions which normally contain fat, for example, in the palpebral portion of the episclera and in the arcus senilis of the cornea.

Development of the lesions as reconstructed from observations over a 2-year period would seem to be as follows (Ref. 2):

(i) The person comes into the plant and is trained to work in rotation in any of a half dozen stations. After a 2-year interval, a brownish tinge against the normally white sclera in the interpalpebral portions is noticeable. When examined with the slit lamp, the conjunctiva in these areas may appear slightly dried with a white, frothy, foamlike deposit attached irregularly and rather firmly to the surface. The deeper portions of the conjunctiva in the same interval assume the light brownish sepia stain. No true microscopic deposition of pigment in definite granules or globules is visible. The cornea remains clear.

(ii) After another 2- or 3-year interval, the conjunctiva appears more thickened and drier, and, in addition to the superficially placed white flecks and sepia stain, small, discrete, dark brown granules or globular precipitates are observed in the deeper structures. Some migration of pigment,

from the limbus into the cornea, can now be observed as well.

(iii) After 5 or more years of exposure, a definite increase is noted in the size, number, and spread of both the granules and the extent of staining. The cornea has now become gravely involved.

(iv) In the next stage, vision has become seriously reduced. The patient has been removed from contact with the chemical. The conjunctival staining has cleared, as it apparently does in time. The corneal staining decreases, but permanent damage is done to the cornea, resulting in increased opacity, increase in astigmatism, possibly corneal thinning, and keratoconus.

(v) The fifth stage may be the development of an opacity extensive enough to require a corneal transplant.

Two of Anderson's (Ref. 2) patients were hospitalized and subjected to exhaustive tests. Urinalysis and studies of the blood were performed repeatedly on all persons employed at the plant. The drug appears to be relatively harmless systemically; no systemic toxicity was observed in this study. As a matter of record, 12 grams (g) were ingested in one instance without fatality (Ref. 8). In this case, the urine gave a positive reaction for phenol for only 3 days after absorption of the drug, so that a positive reaction for phenol in Anderson's cases was hardly to be expected.

The Panel concludes that, although there are no reports of eye injury following the use of hydroquinone bleaching creams, contact with the eyes should be avoided.

In summary, the Panel concludes that 2 percent hydroquinone bleaching creams are safe over limited areas of the body. Their use has not been shown to produce significant systemic or local toxicity, and neither the eye damage reported with industrial exposure nor the skin damage reported with prolonged use of 5 percent creams has ever been reported with concentrations below 5 percent.

(2) *Effectiveness.* The search for an effective and safe agent that would cause depigmentation of human skin has long interested physicians and laymen. Abnormal variation in skin color not only constitutes a cosmetic liability, but in many instances produces formidable emotional and social problems (Ref. 6).

Hydroquinone was first reported to have depigmenting ability by Oettel (Ref. 9), who fed the drug to black-haired cats and noted that after 6 to 8 weeks their coats turned gray. Repigmentation of the hair occurred after the chemical had been withdrawn for a similar length of time. Martin and Ansbacher (Ref. 10) confirmed this

work by feeding hydroquinone to young mice which developed achromotrichia within a period of 4 to 20 weeks.

Occupational leucoderma was reported in 1939 in black tannery workers. The responsible agent was found to be the hydroquinone monobenzyl ether, a rubber antioxidant present in gloves the workers had been wearing. These findings stimulated the investigation by Lerner and Fitzpatrick (Ref. 11) of the hydroquinone monobenzyl ether and similar compounds applied topically as depigmenting agents. It soon became apparent that the clinical use of this agent was associated with several serious difficulties. Its depigmenting ability was unpredictable, and irritation, sensitization, and leucoderma at both treated and untreated sites became frequent problems. In the patients studied by Lerner and Fitzpatrick, leucoderma developed in 31 of 42 patients treated. Unfortunately, cessation of the agent's use did not necessarily stop the spread of depigmentation.

Hydroquinone itself has been shown to inhibit melanogenesis in vitro and in vivo (Refs. 12, 13, and 14). Topical application of hydroquinone produces a reversible depigmentation of skin and hair in humans, mice, and guinea pigs (Refs. 6, 12, and 15). It also produces a reversible regression of melanotic tumors in fish and mice (Refs. 15 and 16).

The mechanism by which melanin formation is inhibited by *p*-hydroxy phenyl derivatives was studied by Denton, Lerner, and Fitzpatrick (Ref. 12). They found that hydroquinone could completely inhibit the enzymatic oxidation of tyrosine to 3, 4-dihydroxyphenylalanine (dopa). They suggested that the hydroquinone monobenzyl ether may be converted in the skin to hydroquinone, which would then inhibit the reaction. It was also suggested that both hydroquinone and the hydroquinone monobenzyl ether could act topically by reducing melanin to a lighter colored substance.

Studies by Spencer (Ref. 15) and by Becker and Spencer (Ref. 17) show that when hydroquinone depigmentation has occurred, the microscopic findings indicate that melanin production is reduced by about one-half. These findings support the clinical observation that depigmentation of the lighter lesions is more apparent than depigmentation of the darker ones.

More precise anatomical studies were performed by Jimbow, Obata, Pathak, and Fitzpatrick (Ref. 18). Black guinea pigs were used in this study. The backs were epilated, and applications were made of creams containing 2 and 5 percent hydroquinone for 6 days of each week. Biopsy specimens were obtained at intervals of 1, 2,

and 3 weeks. These creams induced not only depigmentation but also inflammatory changes and thickening of the epidermis. Depigmentation was visible within 8 to 10 days and was maximum within 14 to 20 days. Rarely could total depigmentation of the skin be observed. Examination of epidermal sheets after incubation in methyl dopa showed a marked decrease in the number of dopa positive melanocytes proportional to the duration of the applications. There was not only a reduction in the number of melanized melanosomes and the number of actively functioning melanocytes, but most of the dendritic cells were devoid of any melanized melanosomes. Moreover, some of them showed poorly developed intracytoplasmic organelles. Ultrastructural changes indicative of some sort of cellular degeneration were also seen. The authors felt that some of the melanocytes were destroyed and discharged from the skin with the exfoliating scales. The melanosomes which had been transferred into the keratinocytes by the melanocytes also showed definite evidence of degradation. The inflammation consisted of histiocytes primarily, but there were also lymphocytes and polymorphonuclear leucocytes. The epidermis was thickened, particularly the granular layers. Desquamation was prominent and was often seen within 1 week after hydroquinone application. In contrast to the extensive melanocytic changes, the keratinocytes did not show any cellular degeneration. An earlier study, referred to by the authors (Ref. 18), suggested that the primary action of hydroquinone is directed at tyrosinase in the melanocytes. This selective inhibition of the enzyme affects melanogenesis in the melanocytes resulting in subsequent cessation of melanin formation and depigmentation, i.e., enzyme-mediated depigmentation. Additional studies, referred to by the authors (Ref. 18), revealed that the primary action of hydroquinone is on some essential subcellular components of vital metabolic processes of melanocytes with resultant cytolysis, i.e., nonenzyme-mediated depigmentation.

In order to study the role of hormones and certain chemicals (among them hydroquinone) on mammalian pigment cells, Hu (Ref. 19) employed mammalian pigment cell strains grown in tissue cultures. He employed, in this study, pigmented (HFH-14 and HFH-18) and nonpigmented (HFH-18NP) cell strains derived from B16 transplantable mouse melanomas.

The melanoma cells were grown on coverglasses in Yerganian culture tubes. Controls and test cultures were fixed and stained at the end of 5 to 7 days of incubation and examined microscopically for extent of growth, rel-

ative numbers of pigmented and non-pigmented cells, and other cellular changes.

Other melanoma cells were grown in 2-ounce prescription bottles; 300,000 cells were inoculated into each culture bottle. In 7 to 9 days, compact sheets of cells were formed on the glass bottom, at which time the cultures were ready for subculture.

For subcultures, 0.01 percent trypsin in Hank's balanced salt solution was used to disperse the cells. When a cell suspension was obtained, a cell count was done to determine the extent of growth; 300,000 cells were then inoculated to another 2-ounce bottle to start the subculture.

For this study, at least three subcultures or more were done for each test agent. For each subculture, cytological examinations of stained as well as unstained slides were made.

At the end of 5 to 7 days of incubation, aggregates of pigmented cells were present overlying the nonpigmented cells in sheet formation on the glass surface. At this time, the coverglasses with the cells in monolayers were transferred and mounted in a perfusion chamber designed to accommodate the rectangular coverglasses. Motion picture sequences of these cells prior to treatment were made as controls, followed by sequences made immediately following treatment and overnight after treatment. In some, the medium containing the test agent was removed and replaced by normal growth medium. Sequences were made following this change of medium to see whether the cells could recover from the effect of the treatment.

All cultures were fixed at the end of the motion picture sequences, mounted on glass slides, and examined for evidence of cellular damage. The results were analyzed, and comparison was made between the treated and untreated cultures.

In general, it appeared that the pigmented cells were more susceptible to the effect of hydroquinone than the nonpigmented cells in the same culture. Following trypsinization, most of the pigment-containing cells disappeared. Only a few cells were seen in the fresh subculture in the first few days.

Hydroquinone inhibited growth of cells in vitro, particularly the pigmented cells, at a concentration of 0.625 micrograms per milliliter ($\mu\text{g}/\text{ml}$). When compared with control cultures, the hydroquinone-treated cultures grew much slower, less extensively, and with only a few pigment-containing cells, in contrast to the controls, which had many aggregates of pigmented cells. "When these treated cells were ready for subculture, the subcultures were also slow in growing and with a definite loss of pigmented cells. At

concentrations of 1.25 and 2.5 $\mu\text{g}/\text{ml}$, hydroquinone inhibited growth completely when it was incorporated in the culture at the beginning of cultivation" (Ref. 19).

When the culture was well established in a normal medium, such as that used in the motion picture study, hydroquinone had no effect on the granule movement of the cells at 1 $\mu\text{g}/\text{ml}$, but it induced cessation of granule movement at 2.5 $\mu\text{g}/\text{ml}$. This effect was found to be reversible on certain occasions. In addition to its effect on the granule movement, hydroquinone also induced vacuolization of the cytoplasm and clumping of melanin granules. At 20 to 40 $\mu\text{g}/\text{ml}$, hydroquinone abruptly stopped granule movement in all cells in the same manner as a fixative affects cells.

Thus this study shows hydroquinone, in appropriate concentrations, exerts a skin-bleaching activity due to its injurious effect on the melanotic cells. A similar effect on goldfish pigment cells has been reported by Chavin and Schlesinger (Ref. 20).

Spencer (Ref. 14) appears to have been the first to use hydroquinone as a bleach, when he studied the chemical in 1961. The original study, although impressive, was felt to be limited because of the ease of oxidation of the hydroquinone in the ointment used. Once hydroquinone has oxidized, its effectiveness as a depigmenting agent is negligible. Oxidation was so pronounced when a 10 percent hydroquinone ointment was used that dark particles of oxidized hydroquinone in the ointment adhered to the skin. When lower concentrations, 1.5 and 2 percent hydroquinone, were used, depigmentation occurred even though yellowing of the freshly prepared white ointment developed within a few weeks. This discoloration of the 1.5 and 2 percent ointments would continue to increase until a dark gray color had developed. This color change was thought to be the result of oxidation of the available hydroquinone, making it worthless for therapy. After a more stable hydroquinone ointment was completed, reevaluation of hydroquinone in different concentrations was done.

Spencer (Ref. 15) reported observations of treatment with 2, 3, and 5 percent stabilized hydroquinone ointment for depigmentation of a variety of pigmentary changes. These included mainly freckles and lentigines occurring on the hands of middle-aged and older white men. Observations were also made on treatment of several black men in the same age group with normal skin.

The hydroquinone ointment being evaluated was applied to the back of one hand. The ointment base was applied to a similar area on the other

hand. The treatment was continued twice daily for 3 months.

Depigmentation of lentigines with hydroquinone requires several weeks of treatment. In this clinical study, a plateau of depigmentation seemed to be reached at about the end of 2 months. Little or no change in color was observed during the final month of treatment. Whether or not further depigmentation would occur with prolonged therapy was not determined in this study. However, the number of patients in whom depigmentation developed from treatment with the stabilized hydroquinone was greater when compared with unstabilized hydroquinone preparations.

Depigmentation with hydroquinone may occur with or without a preceding inflammatory reaction. A transient inflammatory reaction developed in the majority of the patients in this study and lasted a week or so before any significant depigmentation occurred. Although inflammation may occur without depigmentation developing, its appearance during the course of treatment should not be considered an indication to stop therapy. The exception is the patient who develops an inflammatory reaction that increases in intensity. Here the possibility of sensitization should be considered. In the study, no patient being treated with 2 or 3 percent hydroquinone became sensitized. Two patients became sensitized while being treated with the 5 percent hydroquinone. Violent local reactions developed in these two patients and dissemination necessitated discontinuation of treatment. Patch tests with the original 5 percent hydroquinone ointment and another 5 percent hydroquinone ointment made after the reaction had cleared were strongly positive. The dermatopathologist who prepared and studied the biopsies reported that changes varied from acrokeratosis verruciformis to a lesion with long rete ridges that appeared almost anaplastic.

In blacks the response to hydroquinone treatment for depigmentation of normal skin is dependent upon the amount of pigment present. Only in the lighter skin was it possible to observe any contrast between the hydroquinone-treated hand and the control. No depigmentation was observed when darker skin was treated. Even when a clinical response was observed, the microscopic study failed to reveal any difference between the hydroquinone-treated and the untreated hand (Ref. 15).

The Panel concludes that there is ample clinical and laboratory evidence that hydroquinone in a concentration of 1.5 to 2 percent produces skin lightening effects in a majority of users.

The ease of oxidation of hydroquinone is an important factor in reducing

its effectiveness as a skin-lightening agent. With lower concentrations of hydroquinone, oxidation will not produce the pronounced discoloration of the ointment as with higher concentrations. Any darkening of the freshly prepared white ointment should be considered an indication of deterioration of the available hydroquinone.

One method of reducing oxidation has been to package hydroquinone ointment in small tubes. This minimizes the exposure of the ointment surface to air and limits the useable time of the opened package. Another method has been the use of a stabilizing agent such as sodium bisulfite.

(3) **Dosage.** Adult topical dosage is the thin application of a 1.5 to 2.0 percent preparation to the affected area twice daily. There is no recommended dosage for children under 12 years of age except under the advice and supervision of a physician.

(4) **Labeling.** The Panel recommends the category I labeling for skin bleaching active ingredients. (See pt. II, para. B.1. below—Category I Labeling.)

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Category I Labeling

The Panel recommends the following category I labeling for skin bleaching drug products to be generally recognized as safe and effective and not misbranded.

a. **Indications:** (1) "For the gradual fading of 'age spots', 'liver spots', freckles and melasma (the mask of pregnancy, a condition of the skin that may also result from the use of oral contraceptives)."

(2) "Lightens dark pigment in the skin."

b. **Warnings:** (1) "WARNING: Sun exposure should be avoided indefinitely by using a sunscreen agent, a sun blocking agent, or protective clothing to cover bleached skin in order to prevent darkening from reoccurring." This warning should be conspicuously boxed and in red letters.

(2) "Avoid contact with eyes."

(3) "If skin irritation develops, use of this product should be discontinued or a physician should be consulted."

(4) "If no improvement is seen after 2 months of treatment, use of this product should be discontinued."

(5) "Not recommended for use in children under 12 years of age."

(6) "Depigmentation (lightening) effect of this product may not be noticeable when used on very dark skin."

(7) **For products containing a combination of hydroquinone and a sunscreen:** "This product will bleach skin and is not for use for the prevention of sunburn."

2. **Category II conditions under which skin bleaching ingredients are**

not generally recognized as safe and effective or are misbranded. The Panel recommends that the category II conditions be eliminated from OTC skin bleaching drug products effective 6 months after the date of publication of the final monograph in the FEDERAL REGISTER.

Category II Active Ingredient

The Panel has classified the following skin bleaching active ingredient as not generally recognized as safe and effective or as misbranded:

Ammoniated mercury. The Panel concludes that ammoniated mercury is not safe and not effective for OTC use as a skin bleaching drug product.

Ammoniated mercury, also known as ammoniated mercuric chloride, white precipitate, white mercuric precipitate, and aminomercuric chloride, is a water-insoluble substance, which was used in ointment form as a skin bleaching ingredient.

(1) **Safety.** Ammoniated mercury was used for many years as a skin bleaching ingredient until the hydroquinone monobenzyl ether became available.

Mercury can pass through the skin, especially in an ointment base, and chronic application can cause systemic mercury intoxication (Ref. 1). Sensitization is a common occurrence with these preparations according to Goodman and Gilman (Ref. 1) and Fisher (Ref. 2). For these reasons, the Panel feels that ammoniated mercury is not safe for OTC use as a skin bleaching agent.

(2) **Effectiveness.** The Panel has been unable to locate data relevant to the efficacy of ammoniated mercury in OTC skin bleaching drug products. The Panel concludes that ammoniated mercury cannot be generally recognized as effective.

(3) **Evaluation.** The Panel concludes that ammoniated mercury is not generally recognized as safe or effective. Moreover, the presence of a safe and effective ingredient (hydroquinone) renders the use of ammoniated mercury obsolete as a skin bleaching ingredient. The Panel consequently classifies ammoniated mercury as category II.

REFERENCES

- (1) Goodman, L. S. and A. Gilman, "The Pharmacological Basis of Therapeutics," 4th Ed., Macmillan Co., New York, p. 997, 1970.
- (2) Fisher, A. A., "Contact Dermatitis," Lea and Febiger, Philadelphia, p. 235, 1967.

Category II Labeling

The Panel has examined the submitted labeling for skin bleaching drug products and has classified the following claims as Category II:

a. **Certain labeling claims that are unsupported by scientific data and beyond the known pharmacologic**

properties of hydroquinone. These include all claims implying that the use of a skin bleaching agent results in healthier, younger, or rejuvenated skin. Examples of such claims include: "Helps skin look fairer, clearer, and younger"; "Helps fade the brown spots that tend to make your skin look older"; "Works in the pigment-forming cells of your skin to help fade those weathered brown spots on your neck and face—obvious blemishes which can make your skin look older than it should"; "Brightens, smooths, and softens skin"; "Gives a more even-tone wholesome looking coloring"; "Helps the aging changes in complexion to feel and look much younger."

b. *Claims which are not clinically defined or which would imply use of the product on injured skin or burns.* An example of such claims is "For stubborn cases where skin has become discolored, spotted, or darkened from bad weather or natural aging."

c. *Claims which use poorly defined terms that would confuse the consumer because the words have a different significance for different people.* Examples of such terms are "skin discolorations," "hand spots," "blotches," and "blotchy skin."

d. *Claims which imply an immediate rather than a gradual skin bleaching effect through use of certain terms.* Examples of such terms are "fast-acting," "quick," and "prompt."

e. *Claims which in any way negate, detract, or deemphasize the warning statements in Category I labeling.* (See part II, paragraph B.1. above—Category I Labeling.)

3. *Category III conditions for which the available data are insufficient to permit final classification at this time.* None.

C. DATA REQUIRED FOR EVALUATION

None of the skin bleaching active ingredients reviewed in this document for OTC use has been classified by the Panel as Category III. Therefore, studies to bring Category III skin bleaching active ingredients into Category I have not been developed by the Panel.

D. COMBINATION POLICY.

1. *General statement.* The Panel concurs with the OTC drug review regulation (21 CFR 330.10(a)(4)(iv)) which states:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

2. *Combinations of skin bleaching active ingredients.* The Panel has not developed a specific combination policy with respect to the use of more than one skin bleaching active ingredient in a formulation since only one safe and effective ingredient is known at this time, and the Panel sees little likelihood of any additional ingredients achieving general recognition of safety and effectiveness for this use in the immediate future.

3. *Combinations of hydroquinone with a sunscreen.* The Panel is aware of, and has had submitted to it, only one type of combination product, hydroquinone used with a sunscreen. The Panel concludes that this is a rational combination, since the depigmentation effect of hydroquinone is rapidly reversed by exposure to the sun. The Panel concludes that hydroquinone when used as a skin bleaching agent under the conditions set forth for category I ingredients may be combined with any category I sunscreen agent. However, the Panel feels that such a combination product must not bear indications for the prevention of sunburn and, in addition, must bear the following warning on its label: "This product will bleach skin and is not for the prevention of sunburn."

The Commissioner has carefully considered the environmental effects of this action and, because it will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that subchapter D of chapter I of title 21 of the Code of Federal Regulations be amended by adding new part 358, subpart A, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—Skin Bleaching Drug Products

GENERAL PROVISIONS

- Sec.
358.1 Scope.
358.3 Definition.

ACTIVE INGREDIENT

- 358.10 Skin bleaching active ingredient.
358.20 Permitted combinations of active ingredients.

LABELING

Sec.
358.50 Labeling of skin bleaching drug products.

AUTHORITY: Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371) (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—Skin Bleaching Drug Products

GENERAL PROVISIONS

§ 358.1 Scope.

An over-the-counter skin bleaching drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part 358, subpart A, in addition to each of the general conditions established in § 330.1 of this chapter.

§ 358.3 Definition.

Skin bleaching active ingredient. An agent designed to bleach or otherwise lighten limited areas of hyperpigmented skin through the suppression of melanin pigment formation within skin cells.

ACTIVE INGREDIENT

§ 358.10 Skin bleaching active ingredient.

The active ingredient of the product consists of the following when used within the dosage limits established: Hydroquinone 1.5 to 2.0 percent.

§ 358.20 Permitted combinations of active ingredients.

Hydroquinone identified in § 358.10 may be combined with any generally recognized safe and effective sunscreen active ingredient identified in § 352.10 of this chapter provided that the product is labeled only as identified in § 358.50.

LABELING

§ 358.50 Labeling of skin bleaching drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "skin bleaching agent."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.* (1) "For the gradual fading of 'age spots,' 'liver spots,' freckles and melasma (the mask of pregnancy, a condition of the

skin that may also result from the use of oral contraceptives).

(2) "Lightens dark pigment in the skin."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.* (i) "WARNING: Sun exposure should be avoided indefinitely by using a sun-screen agent, a sun blocking agent, or protective clothing to cover bleached skin in order to prevent darkening from reoccurring." This warning should be conspicuously boxed and in red letters.

(ii) "Avoid contact with eyes."

(iii) "If skin irritation develops, use of this product should be discontinued or a physician should be consulted."

(iv) "If no improvement is seen after 2 months of treatment, use of this product should be discontinued."

(v) "Not recommended for use in children under 12 years of age."

(vi) "Depigmentation (lightening) effect of this product may not be noticeable when used on very dark skin."

(2) *For combination products identified in § 358.20.* "This product will bleach skin and is not for use for the prevention of sunburn."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions" followed by "or as directed by a physician":

(1) *For products containing the ingredient identified in § 358.10 or any combination identified in § 358.20.* Adult topical dosage is the thin appli-

cation of a 1.5 to 2.0 percent preparation to the affected area twice daily. There is no recommended dosage for children under 12 years of age except under the advice and supervision of a physician.

(2) [Reserved]

Interested persons are invited to submit their comments in writing (preferably in quadruplicate and identified with the hearing clerk docket number found in brackets in the heading of this document) regarding this proposal on or before February 1, 1979. Such comments should be addressed to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be accompanied by a memorandum or brief. Comments replying to comments may also be submitted on or before March 5, 1979. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 17, 1978.

SHERWIN GARDNER,
Acting Commissioner
of Food and Drugs.

[FR Doc. 78-30825 Filed 11-2-78; 8:45 am]

FRIDAY, NOVEMBER 3, 1978

PART IV



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

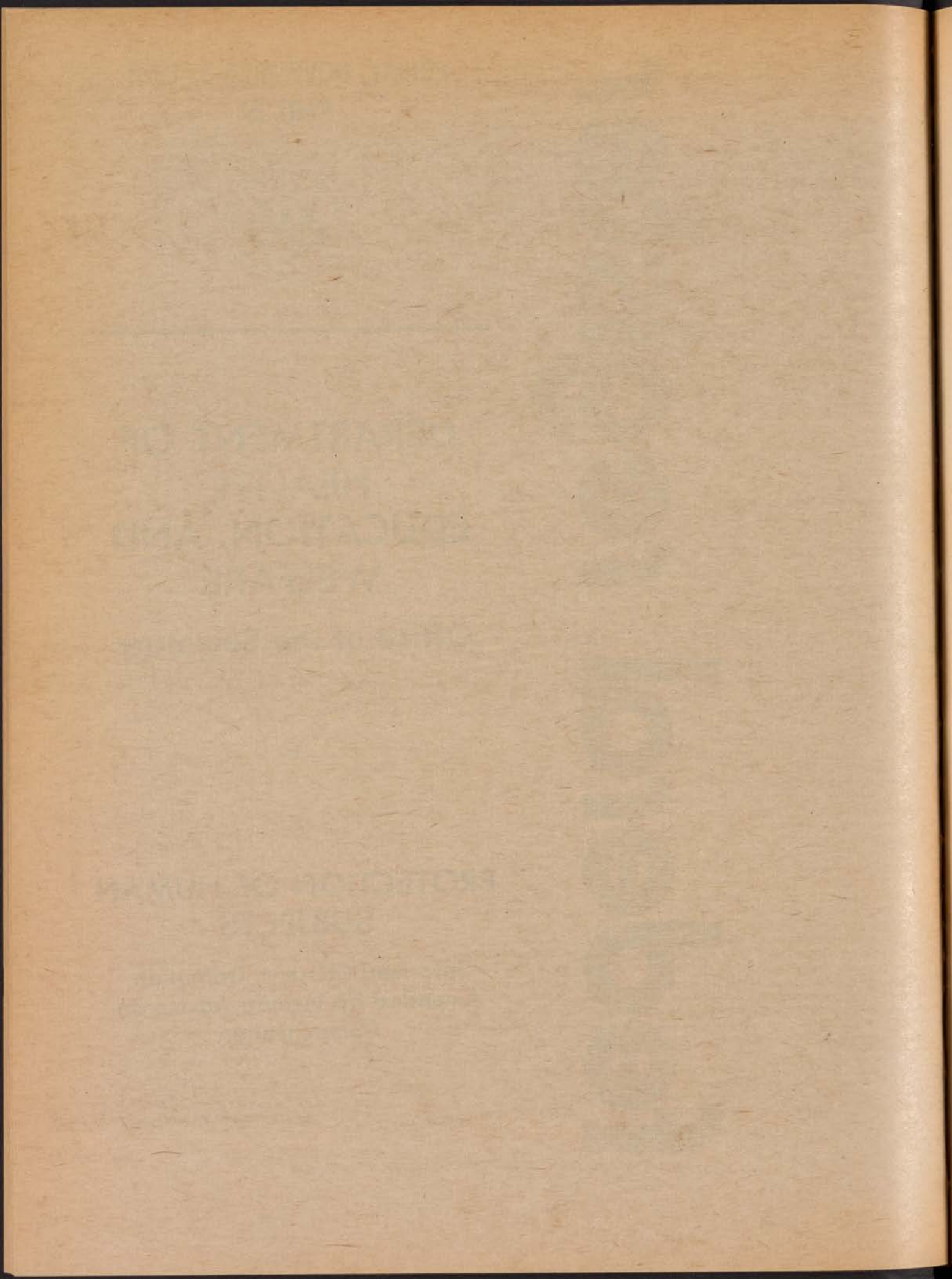
Office of the Secretary



PROTECTION OF HUMAN
SUBJECTS

Informed Consent; Definition
Amended To Include Advice on
Compensation

Registered
for
protection



[4110-03-M]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF
HEALTH, EDUCATION, AND WEL-
FARE, GENERAL ADMINISTRATION

PART 46—PROTECTION OF HUMAN
SUBJECTS

Informed Consent — Definition
Amended To Include Advice on
Compensation

AGENCY: Department of Health,
Education, and Welfare.

ACTION: Interim final regulation.

SUMMARY: The Department of
Health, Education, and Welfare
hereby amends the definition of in-
formed consent in its regulations on
protection of human subjects, by re-
quiring that prospective subjects be
advised as to the availability or
nonavailability of medical treatment
or compensation for physical injuries
incurred as the result of participating
in biomedical or behavioral research.

EFFECTIVE DATE: January 2, 1979.

ADDRESS: Comments and requests
for information and requests for addi-
tional copies of this notice to: Robert
Backus, Ph. D., Acting Director, Office
for Protection From Research Risks,
National Institutes of Health, 9000
Rockville Pike, Bethesda, Md. 20014,
301-496-4705.

SUPPLEMENTARY INFORMATION:
On May 30, 1974, the Department of
Health, Education, and Welfare pub-
lished in the FEDERAL REGISTER regu-
lations for the protection of human sub-
jects (39 FR 18914). These regulations
(codified at 45 CFR Part 46) include a
requirement that no subject may be
involved in activities covered by the
regulations, which would place the
subject at risk, unless legally effective
informed consent is first obtained
from the subject or the subject's legal-
ly authorized representative. Section
46.103(c) of the regulations sets forth
a detailed definition of "informed con-
sent" including six basic elements of
information necessary to such consent.

Shortly thereafter, a Department
task force was formed to develop a
mechanism to compensate persons in-
jured as a result of their participation
in research. The task force issued a
report in January 1977 making a
number of recommendations for com-

pensating injured subjects (DHEW
Publication No. OS-77-003). This
report was sent to the National Com-
mission for the Protection of Human
Subjects of Biomedical and Behavioral
Research for comment. The Commis-
sion's reply, received in June 1977, was
generally favorable to the task force's
recommendations. However, the Com-
mission urged that the existence or ab-
sence of a compensation mechanism
be disclosed as part of the informed
consent process.

More recently, in its own Report and
Recommendations on Institutional
Review Boards (IRBs) dated Septem-
ber 1, 1978, the Commission recom-
mended that subjects should be in-
formed "whether treatment or com-
pensation is available if harm occurs"
(HEW Publication No. OS-78-008, at
page 21). The Department will be pub-
lishing the Commission's recommenda-
tions on IRBs in the FEDERAL REGISTER
for public comment.

The Department believes, however,
that, at least where research presents
risk of physical harm, subjects should
be advised at the outset whether there
will be any financial protection for
them in the event they are injured.
The public interest would therefore be
served by adding this element of infor-
mation to the Department's informed
consent requirements as soon as possi-
ble. I therefore find that good cause
exists for issuing this as an interim
final regulation, subject to possible
future changes after consideration of
public comment.

Consequently, pending consideration
of, and response to the Commission's
overall recommendations on IRBs, the
Department is hereby amending the
definition of informed consent along
lines suggested by the Commission.
Since the amendment is being adopted
prior to public comment, its scope will
be limited to treatment and compensa-
tion for physical injury, and only to
those physical injuries arising from
biomedical or behavioral research.
Also, it will be extended to research
conducted in collaboration with fore-
ign governments or international or-
ganization, absent the explicit noncon-
currence of those governments or or-
ganizations.

The amendment to the regulations
will be effective on a prospective basis,
on January 2, 1979. After that date,
IRBs, in carrying out their normal re-
sponsibilities for review of new re-
search proposals and ongoing projects,
under 45 CFR Part 46, shall utilize the
definition of informed consent in sec-
tion 46.103(c), as amended.

Although the amendment is being
adopted as an interim final regulation,
public comment is requested both on
the basic issue of advising subjects re-
garding the availability or
nonavailability of compensation and
medical treatment for injuries and the
specific amendment itself, including
the limitations on its scope. The De-
partment recognizes that limiting the
amendment to the regulations to
physical injury and to biomedical and
behavioral research may be artificial
and unduly restraining. At the same
time, however, the Department is re-
viewing the issue of the applicability
of the affected regulations and the
scope and substance of this amend-
ment will be examined in light of the
outcome of that review.

Dated: September 5, 1978.

CHARLES MILLER,
Acting Assistant Secretary
for Health.

Approved: October 21, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Accordingly, Part 46 of 45 CFR, Sub-
title A, is amended by:

1. Deleting the word "and" at the
end of § 46.103(c)(5).
2. Changing the period at the end of
§ 46.103(c)(6) to a semicolon, and
adding the word "and" after the semi-
colon.
3. Adding the following new
§ 46.103(c)(7):

§ 46.103 Definitions.

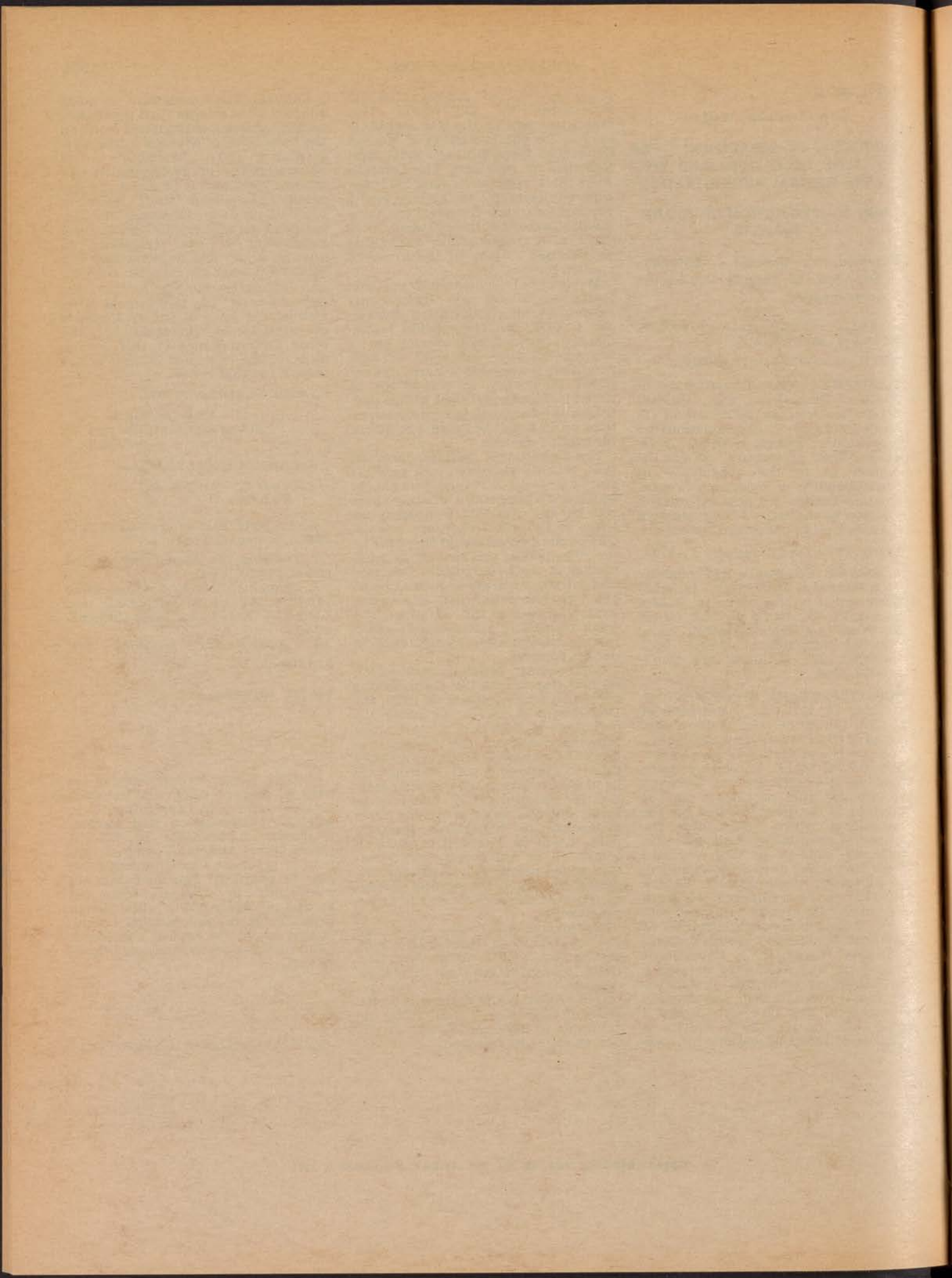
* * * * *

(c) * * *

(7) With respect to biomedical or be-
havioral research which may result in
physical injury, an explanation as to
whether compensation and medical
treatment is available if physical
injury occurs and, if so, what it con-
sists of or where further information
may be obtained. This subparagraph
will apply to research conducted
abroad in collaboration with foreign
governments or international organi-
zations absent the explicit nonconcur-
rence of those governments or organi-
zations.

* * * * *

[FR Doc. 78-30752 Filed 11-2-78; 8:45 am]



Registered
Federal

FRIDAY, NOVEMBER 3, 1978

PART V



**DEPARTMENT OF
LABOR**

**Employment Standards
Administration**



**MINIMUM WAGES FOR
FEDERAL AND FEDERALLY
ASSISTED
CONSTRUCTION**

**General Wage Determination
Decisions**

[4510-27-M]

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

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR78-4071	July 21, 1978.
Louisiana:	
LA78-4099	Oct. 6, 1978.
LA78-4113	Oct. 13, 1978.
Maryland:	
MD77-3086	Aug. 5, 1977.
MD78-3008	Mar. 3, 1978.
Texas:	
TX78-4017	Mar. 10, 1978.
TX78-4038	Apr. 14, 1978.
TX78-4078; TX78-4079	Aug. 11, 1978.
TX78-4088	Aug. 25, 1978.
TX78-4090	Sept. 15, 1978.
TX78-4096	Sept. 22, 1978.
TX78-4114	Oct. 20, 1978.
Wisconsin:	
WI78-2110	Do.

SUPERSEDEAS DECISIONS 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.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Delaware:	
DE77-3134 (DE78-3080)	Sept. 30, 1977.
Illinois:	
IL78-2043 (IL78-2139)	Mar. 24, 1978.
Massachusetts:	
MA78-2080, MA78-2083, MA78-2084, MA78-2085 (MA78-2155)	Sept. 22, 1978.
Puerto Rico:	
PR77-3097 (PR78-3093); PR77-3098 (PR78-3092)	July 8, 1977.
Virginia:	
VA78-3041 (VA78-3076)	May 5, 1978.
VA78-3039 (VA78-3074); VA78-3042 (VA78-3075)	May 12, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 27th day of October 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

DECISION NO. AR78-4071 - Mod. #3
(43 FR 31530 - July 21, 1978)
Union & Ouachita Counties, Arkansas

CHANGE:

DECISION NUMBER for modification number one published in 43 FR 41339 on September 15, 1978 and modification number two published in 43 FR 49149 on October 20, 1978 to read "AR78-4071."

DECISION #1478-4099 - Mod. #1 (43 FR 46447 - October 6, 1978) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appl. Tr.
		H & W	Pensions	Vacation	
Change: Asbestos workers - Zone 2	\$10.93	.40	.76		.03
Bricklayers & stonemasons:					
Zone 1	11.05	.80	.75		.31
Zone 3	11.45	.53	.60		.05
Zone 4	11.00	.50	.35		.035
Zone 6	10.25	.40			
Zone 8	10.85		.25		
Zone 9	11.00				
Carpenters (Building Const.):					
Zone 2:					
Carpenters, pile-drivers & soft floor layers	10.35	.60	.33		.07
Millwrights	12.05				.07
Zone 4:					
Carpenters & pile-drivers	11.00	.50	.60		.05
Millwrights	12.425				.08
Zone 5:					
Carpenters & soft floor layer	10.62	.55	.40		.04
Millwrights	11.01	.55	.40		.04
Pile-drivers	10.72	.55	.40		.04
Zone 6:					
Carpenters & soft floor layer	10.455	.55	.40		.04
Millwrights	11.01	.55	.40		.04
Pile-drivers	10.72	.55	.40		.04
Zone 8:					
Carpenters & soft floor layer	9.85	.45	.35		.04
Millwrights	10.60	.45	.35		.04
Pile-drivers	10.10	.45	.35		.04
Cement masons (Building Const.):					
Zone 1	10.11				
Zone 3	9.25	.50	.50		.05
Zone 4	10.445	.45	.40		.04
Zone 6	7.25				
Zone 7	9.30				
Zone 8	9.57	.35	.25		
Cement masons (Highway Const.):					
Zone 7 - on concrete lined ditches	9.25	.50	.50		.05
Zone 8 - on concrete lined ditches	9.25	.50	.50		.05

NOTICES

MODIFICATIONS P. 2

DECISION #178-4099 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Electricians:						
Zone 5 - Electricians	\$12.00	.35	3 1/2% .30			.03
Cable splicers	12.00	.35	3 1/2% .30			.03
Ironworkers (Building Const.):						
Zone 1	11.06	.63	.35			.04
Zone 2	11.14	.45	.75			.04
Zone 3	11.05	.45	.90			.06
Zone 4	11.00	.45	1.15			.06
Zone 6	11.10	.35	.60			.05
Laborers (Building Const.):						
Zone 2 - Group 1	6.47	.25	.15			.05
Group 2	6.67	.25	.15			.05
Zone 3 - Group 1	7.95	.25	.15			.05
Group 2	8.05	.25	.15			.05
Group 3	8.10	.25	.15			.05
Group 4	8.91	.25	.15			.05
Group 5	8.47	.25	.15			.05
Group 6	8.31	.25	.15			.05
Group 7	8.00	.25	.15			.05
Zone 4 - Group 1	7.22	.25	.27			.05
Group 2	7.32	.25	.27			.05
Group 3	7.37	.25	.27			.05
Zone 5 - Group 1	6.82	.25	.27			.05
Group 2	6.92	.25	.27			.05
Group 3	6.97	.25	.27			.05
Zone 6 - Group 1	7.90	.25	.27			.05
Group 2	8.00	.25	.27			.05
Group 3	8.15	.25	.27			.05
Group 4	8.06	.25	.27			.05
Group 5	8.16	.25	.27			.05
Zone 7 - Group 1	7.575	.25	.27			.05
Group 2	7.725	.25	.27			.05
Group 3	7.775	.25	.27			.05
Zone 8 - Group 1	6.06	.25	.15			.05
Group 2	6.26	.25	.15			.05
Group 3	6.31	.25	.15			.05
Group 4	6.36	.25	.15			.05
Group 5	6.71	.25	.15			.05
Zone 9 - Group 1	6.65	.25	.15			.05
Group 2	6.75	.25	.15			.05
Group 3	6.80	.25	.15			.05
Group 4	6.85	.25	.15			.05

MODIFICATIONS P. 4

MODIFICATIONS P. 3

DECISION 6147-4099 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Laborers (Bldg. Const.) (Cont'd):					
Zone 10 - Group 1	\$ 6.40	.25	.15		.05
Group 2	6.50	.25	.15		.05
Group 3	6.65	.25	.15		.05
Lathers - Zone 1	9.68	.20	.30		.05
Zone 2	9.83	.20	.30		.05
Zone 3	10.08	.20	.30		.05
Zone 4	10.43	.20	.30		.05
Zone 5	10.57				.01
Line Construction:					
Zone 1 - Group 1	12.00	.35	3%+.30		.03
Marble, tile & terrazzo workers & finishers:					
Zone 1 - Marble setters	11.00	.50	.35		.035
Tile & terrazzo worker	11.00	.50	.35		.035
Zone 2 - Marble & terrazzo workers	11.45	.53	.60		.05
Zone 3 - Marble setters	11.00				
Zone 4 - Marble, tile & terrazzo workers	9.82		.25		
Zone 5 - Marble, tile & terrazzo workers	9.15	.30			
Plasterers - Zone 4	10.36				.01
Zone 6	7.25				.01
Zone 8	10.85		.25		
Plumbers & pipefitters - Zone 1	11.25	.50	.75		.08
Zone 2	11.00	.64	.675		.06
Power Equipment Ops. (Bldg. Const.):					
Zones 2, 3 & 4 - Group 1	7.97	.65	.48		.05
Group 2	8.34	.65	.48		.05
Group 3	8.73	.65	.48		.05
Group 4	8.79	.65	.48		.05
Group 5	9.16	.65	.48		.05
Group 6	10.77	.65	.48		.05
Zone 7 - Group 1	10.53	.65	.75		.05
Group 2	10.78	.65	.75		.05
Group 3	7.65	.65	.75		.05
Group 4	8.04	.65	.75		.05
Group 5	8.85	.65	.75		.05
Group 6	10.28	.65	.75		.05
Roofers - Zone 1 - Nonfers	10.36		.20		
Truck drivers (Bldg. Const.):					
Zone 4 - Group 1	8.00				
Group 2	8.30				
Group 3	8.45				
Group 4	8.65				
Group 5	8.80				
Group 6	8.60				

DECISION #TX78-4096 - Mod. #3 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Building Construction: Asbestos workers - Zone 2	\$10.93	.40	.76		.03
DECISION #TX78-4114 - Mod. #1 (43 FR 49208 - October 20, 1978) Lubbock County, Texas					
Change: Power Equipment Operators: Group 1 Group 2 Group 3	7.875 8.775 9.175	.40 .40 .40	.625 .625 .625		.10 .10 .10
DECISION #W178-2110 - MOD. #1 (43 FR 49222 October 20, 1978) Ashland, Bayfield and Douglas Counties, Wisconsin					
ADD: Laborers: Ashland County only General Laborer Concrete Work and carrying reinforcing or any steel Mason Tenders, Bricklayers, Helpers, Sewer Diggers, Pipefitters, Operating small mixers or mixing by hand, Operating power tools such as jackhammers, vibrator, air spade and forklift All work on towers or scaffolds 40 feet or more above the ground.	\$ 8.18 8.23	.45 .45	.40 .40		.02 .02
Blocking, digging, raising and shoring work in basements under houses	8.28	.45	.40		.02

DECISION #TX78-4079 - Mod. #5 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change: Bricklayers: Kleberg & Nueces Cos. Marble, tile & terrazzo workers Plasterers	\$ 9.31 8.68 10.45	.28	.30		.05 .02 .01
DECISION #TX78-4087 - Mod. #2 (43 FR 39285 - August 25, 1978) Armstrong, Carson, Castro, Child- ress, Collinsworth, Dallam, Deaf Smith, Donley, Gray, Hans- ford, Hartley, Herphill, Hutch- inson, Lipscomb, Moore, Ochil- tree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change: Bricklayers & stonemasons Carpenters: Zone 1 - Carpenters Millwrights	10.70 10.30 10.65	.40 .40 .40	.40 .40 .40		.01 .01
DECISION #TX78-4088 - Mod. #4 (43 FR 36287 - August 25, 1978) Wichita County, Texas					
Change: Asbestos workers Power Equipment Operators: Group 1 Group 2 Group 3	10.93 7.875 8.775 9.175	.40 .40 .40 .40	.76 .625 .625 .625		.03 .10 .10 .10
DECISION #TX78-4090 - Mod. #1 (43 FR 31264 - September 15, 1978) Bowie County, Texas					
Change: Asbestos workers Power Equipment Operators: Group 1 Group 2 Group 3	10.93 8.065 9.40 9.80	.40 .40 .40 .40	.76 1.00 1.00 1.00		.03 .10 .10 .10

SUPERSEDES DECISION

STATE: Delaware
 COUNTY: State of Delaware
 DECISION NO.: DE78-3080
 DATE: Date of Publication
 Supersedes Decision No. DE77-3134 dated September 30, 1977 in 42 FR 52990
 DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4 stories), Heavy & Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$12.14	1.10	1.25		.03	
BOILERMAKERS:						
New Castle County	13.775	1.075	1.00		.02	
Kent & Sussex Counties	12.025	1.075	1.00		.02	
BRICKLAYERS	10.60	.95	.85			
CARPENTERS - BUILDING & HEAVY						
New Castle & Kent Counties	10.70	1.29	1.00		.02	
Sussex County	10.12		.82		.01	
CARPENTERS - HIGHWAY CONSTRUCTION						
New Castle & Kent Counties	9.20	1.29	1.00		.02	
CEMENT MASONS:						
BUILDING CONSTRUCTION	9.05	1.28	.82			
HEAVY & HIGHWAY CONSTRUCTION	8.75	1.28	.82			
DIVERS	11.12	2.33	1.35	1	.12	
ELECTRICIANS	11.40	5%	9%			
ELEVATOR CONSTRUCTORS:						
Mechanics	12.09	.545	.35	4%+a+b	.02	
Elevator Constructors' Helpers	8.46	.545	.35	4%+a+b	.02	
Elevator Constructors' Helpers (Probationary)	6.045					
GLAZIERS	10.53	.50	.30		.01	
IRONWORKERS:						
Structural, Ornamental, Reinforcing, Riggers, & Machinery Movers	11.95	.84	1.36		.05	
LABORERS - BUILDING CONSTRUCTION:						
New Castle County:						
Group 1: General construction, dumpmen, & truck spotters	8.10	.90	.50			
Group 2: Caulkers, operators of pneumatic & electric tools, vibrating machines, concrete saws, pumps, pot tenders, sewer pipelayers, demolition (use of hand tools), driller (except core, diamond, or multiple wagon), mason & plasterers tenders, cement workers,						

Decision No. DE78-3080

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS - BUILDING CONSTRUCTION:					
Group 2: (Cont'd)					
mobile buggy operators, portable power saw operators, scaffold builders, hook-up men, signal men, stripping of flat arch & form work (also cleaning & oiling thereof), tool room attendant, gunite material & rebound workers, and shoring workers	8.35	.90	.50		
Group 3:					
Burners & welders, Caisson workers, top men (when excavations for caissons are dug eight feet or more below the natural grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level), driller (core, diamond or multiple wagon), gunite industrial fume stack, nozzle, & rod workers, sandblaster (nozzlemen), tunnelling, underpinning excavation (when an underpinning excavation is dug eight feet or more below the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached), working under compressed air					
Group 4:					
Blasters, laborers engaged in unloading, placing, and assis-	8.60	.90	.50		

CLASSIFICATION DEFINITIONS
LABORERS - BUILDING CONSTRUCTION
Kent and Sussex Counties

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
9.35	.90	.50			
8.70	.90	.50			
8.50	.90	.60			
8.75	.90	.60			
9.00	.90	.60			
9.10	.90	.60			
9.75	.90	.60			

Group 1 - General laborers, dumpmen & truck spotters

Group 2 - Caulkers; operators of pneumatic and electric tools; vibrating machines; concrete saws and pumps (which shall include the hook up of hose and/or pipe); sandblasting pot tenders; and sewer pipe, clay, terra cotta, concrete and non-metallic pipe layers, demolition (where walls are required to be ridden down by hand tools); driller (except core, diamond, or multiple wagon); gunite material and rebound workers; mason and plasterer tenders, and cement workers; mobile buggy operators; operators of power saws (portable); power and sewing machines; scaffold builders; shoring, lagging and cribbing, including bolting and bracing; signal, hookup and grading on all work; stripping of flat arch and form work, the cleaning and oiling thereof; and the handling, moving and carrying to the next point of erection by any method; tool room attendant water pumps and generators

Group 3 - Burners and welders; caisson workers, top men (when excavations for caissons are dug eight feet or more below the natural grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level); driller (core, diamond or multiple wagon); Gunite industrial fume stack, nozzle and rod workers; sandblaster (nozzlemann); tunnelling; underpinning excavation (when an underpinning excavation is dug eight feet or more below the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached); working under compressed air

Group 4 - Caisson workers (bottom men)

Group 5 - Blasters, laborers engaged in the placing, installation and cleaning of well point systems or deep well systems as long as needed on the job for such work

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
LATHERS	.50	.15		.01
LINE CONSTRUCTION:				
Linemen, cable splicers	.45	3%		3/46f 1%
Winch truck operators	.45	3%		3/46f 1%
Truck drivers	.45	3%		3/46f 1%
Groundmen	.45	3%		3/46f 1%
MARBLE SETTERS	.95	.85		
MILLWRIGHTS:				
Kent & New Castle Counties	.83	2.00		.01
Sussex County	10.22	.82		
PAINTERS:				
Base rate	.95	.55		.01
Structural steel & suspended scaffolding (swins, chair, & window belts)	.95	.55		.01
Machine taping	.95	.55		.01
Bridges (if surface to be painted is 50' or more above ground or water), and/or cabled scaffolding	.95	.55		.01

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
LABORERS - HEAVY CONSTRUCTION:				
New Castle County:				
Common laborers, landscapers, planters, seeders, aborists, asphalt tamers, rakers, concrete pitmen, puddlers, rubber magazine tenders, railroad trackmen, signal men	.90	.50		
Pipelayers	.90	.50		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caisson & coffer dams (open-air, below 8')	.90	.50		
LABORERS - HEAVY CONSTRUCTION:				
Kent & Sussex Counties:				
Common laborers, landscapers, planters, seeders, aborists, asphalt tamers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, signal men	.90	.50		
Pipelayers	.90	.50		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below 8')	.90	.50		
LABORERS - HIGHWAY CONSTRUCTION:				
New Castle County	.90	.50		
Kent & Sussex Counties	.90	.50		

DECISION NO. DE78-3080

DECISION NO. DE78-3080

CLASSIFICATIONS

Group 1 - Machines with booms doing hook work, any machine handling machinery, cable spinning machines, helicopter and similar machines

Group 2 - All types of cranes, all types of backhoes, cableways, deraillines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with 2 towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machines, in tunnel, all front end loaders 3-4 c.y., and over, tandem scrapers, pipin type backhoes, boat captains, batch plant operators (concrete), drills, self contained rotary drill, fork lifts (20' lift & over), and similar machines

Group 3 - Conveyors, building hoist (single drum), scrapers, tounapulls, spreaders (asphalt), high or low pressure boilers, concrete pumps, well drillers, bulldozers, tractors, asphalt plant engineers, rollers (high grade finishing), ditch witch type trenchers, all loaders under 3 1/2 c.y., mechanic-welders, motorpatrols, core drill operator, forklift trucks under 20' lift, similar machines

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 boom, seeding spreader, tireman (for power equipment), and similar machines

Group 5 - Fireman, grease trucks

Group 6 - Oilers and deck hands (personnel boats), core drill helper

Group 7 - All machines with booms (including jibs, masts and leads)

	Fringe Benefits Payments				Education f end/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
PAINTERS: (CONT'D) Tanks (if exposed to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sand-blasting, and spray Height pay - work 75' or more from surface an additional 55c shall be paid above the applicable rate.	\$ 9.52	.95	.55		.01
PILEDIVERSMEN, WHARF & DOCK BUILDERS PLASTERERS PLUMBERS & STEAMFITTERS: New Castle & Kent (north of the southern boundary of Dover City) Counties: Plumbers Steamfitters Sussex & Kent (remainder of county) Counties POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6 Group 7 100' & over 150' & over 200' & over	10.77 10.62 11.50 12.35 10.30 12.44 12.15 11.28 10.51 10.04 9.13 12.69 12.94 13.18	2.13 .90 1.15 .785 1.00 7% 7% 7% 7% 7% 7% 7% 7% 7%	1.30 1.00 .965 1.00 10.3% 10.3% 10.3% 10.3% 10.3% 10.3% 10.3% 10.3%	c 1.04 + d e f g g g g g g g g	.12 .01 .10 .05 .05 1.8% 1.8% 1.8% 1.8% 1.8% 1.8% 1.8% 1.8%

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POWER EQUIPMENT OPERATORS -
HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments				App. Tr.
		H & W	Pensions	Vacation		
Group 1	12.15	7%	10.3%	8		1.8%
Group 2	11.28	7%	10.3%	8		1.8%
Group 3	10.51	7%	10.3%	8		1.8%
Group 4	9.13	7%	10.3%	8		1.8%

CLASSIFICATIONS

Group 1 - Pippin type backhoe, euclid loader, all types of cranes, all types of backhoes, draglines, all types of shovels, keystones, paver 21E and over, trenching machines, cableways, all loaders 2 cu. yds. and over and similar machines

Group 2 - Carryalls, tournapulls, asphalt spreaders, motor patrols, concrete pumps, asphalt plant engineers, well drillers, all bulldozers, tractors, maintenance engineer, welders, conveyor loader, all loaders under 2 cu. yds., and similar machines

Group 3 - Form line grader, farm tractor, road finishing machine, concrete spreader, fine grade machines, compressors, pumps (4" or over), pumps (2" or more any size), well point pumps, concrete breaking machines, rollers (grade fill and stone base), firemen, and similar machines

Group 4 - Oilers

ROOFERS:						
Composition, damp and waterproofing	11.36	1.30	.82	h		
Mechanic II (re-roofing)	5.50	1.30	.82	h		
SHEET METAL WORKERS	10.55	1.25	.81			.07
SOFT FLOOR LAYERS:						
New Castle & Kent Cos.	10.46	1.29	1.00			.02
Sussex Co.	10.12		.82			.01
SPRINKLER FITTERS	12.31	.75	1.05			.08
STONE MASONS	10.60	.95	.85			
TERRAZZO WORKERS & TILE SETTERS	10.33	.95	.85			
TILE SETTERS' HELPERS	7.25					

DECISION NO. DE78-3080

TRUCK DRIVERS - BUILDING
CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments				App. Tr.
		H & W	Pensions	Vacation		
Group 1	\$ 7.96	.7175	.70	£		£
Group 2	7.86	.7175	.70	£		£
Group 3	7.71	.7175	.70	£		£

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS

Group 1 - Euclid type or similar off highway equipment (where not self-loaded), off highway tandem back-dump, specialized earth moving equipment, truck mechanic (first class), twin engine equipment & double-hitched equipment (where not self-loaded).

Group 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks & truck mechanics (second class).

Group 3 - Dumps (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight job), fork lifts, form trucks, greasers, material checkers & receivers, panel trucks, pick-ups, rubber-tired (towing & pushing vehicles), tiremen & truck mechanic helpers, truck helpers.

TRUCK DRIVERS - HEAVY HIGHWAY

CONSTRUCTION:

Group 1	7.11	.7175	.70	£		£
Group 2	7.01	.7175	.70	£		£
Group 3	6.86	.7175	.70	£		£

DECISION NO. DE79-3080

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS
HEAVY & HIGHWAY CONSTRUCTION

Group 1 - Euclid type or similar off highway equipment (where not self loaded), specialized earth moving equipment, truck mechanics (first class), twin engine equipment & double-hitched equipment (where not self-loaded).

Group 2 - A-frames, agitators or mixers, asphalt distributors, dispatchers, low-boys, semi-trailers, tandems, batch trucks, truck mechanics (second class).

Group 3 - Dump trucks (single axle), dumpsters, escort & pilot vehicles, flat body material trucks (straight jobs), greasers, material checkers & receivers, panel trucks, pick-ups, rubber-tired (towing or pushing flat body vehicles), tiremen, truck mechanic helpers, truck helpers.

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 contribution of 4% of the basic hourly rate for 5 years or more of service and 2% of the basic hourly rate for 6 months to 5 years of service for Vacation Pay Credit

b. Paid Holidays: A through F

c. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Presidential Election Day, Veterans Day or Thanksgiving Day.

d. Paid Holidays: A through F; provided the employee is actively and currently employed by the employer at the time the holiday occurs; provided the employee would otherwise be scheduled to work and would work on such day if it was not observed as a holiday; and provided the employee has worked under current working conditions the last regularly scheduled workday before, and the first regularly scheduled workday after the holiday.

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FOOTNOTES: (Cont'd)

e. Paid Holiday: Labor Day provided the employee is currently on the payroll and would be scheduled to work the holiday also employee must work the day prior to and after the holiday.

f. Paid Holidays: A through F; provided the employee worked the scheduled work day preceding and following the holiday.

g. Paid Holidays: A through F; plus Election Day provided the employee works the scheduled work day before and after the holiday.

h. Paid Holiday: Election Day.

i. Paid Holidays: Good Friday, Memorial Day, Washington's Birthday, Labor Day, Presidential Election Day, Veteran's Day, Thanksgiving Day, Christmas Day.

STATE: Illinois

COUNTIES: Bureau, Carroll, Henry, Lee, Jobaviess, Ogle, Rock Island, Stephenson, Whiteside and Minnebago

DECISION NUMBER: IL78-2139

DATE: Date of Publication

Supersedes Decision No. IL78-2043 dated March 24, 1978 in 43 FR 12542

DESCRIPTION OF WORK: Heavy and Highway Construction

ILL-III-2

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
CARPENTERS:						
Bureau County	\$11.75	.75	.70			.03
Carroll, Stephenson and Jobaviess Counties	9.685	.30	.35			
Lee County	9.885	.45				
Whiteside County	9.635	.35	.35			
Rock Island and Henry Counties; Oregon and south thereof in Ogle County	13.00	.60	.90			.04
Winnebago County; North of Oregon in Ogle County	10.33	.40	1.25			
CEMENT MASONS:						
Bureau County	11.85		1.00			
Carroll, Jobaviess, Lee, Ogle and Stephenson Counties; Whiteside County excluding Erie and S.W. thereof	10.70	.55	1.00			
Rock Island County; Western half of Henry County and Erie and S.W. thereof in Whiteside County	10.87	.70	.60			
Eastern half of Henry County	11.99		.20			
Winnebago County	10.98	.55	.80			
ELECTRICIANS:						
Winnebago, Ogle, Lee and Stephenson Counties; Townships of Warren, Rush, Nora, Stockton, Wards Grove, Pleasant Valley and Bertram in Jobaviess County; Townships of Cherry Grove, Shannon, Rock Creek, Lima, Wysox and Elkhorn Grove in Carroll County; Townships of Genesee, Jordan, Hopkins, Sterling, Whiteside County; Townships of Hume, Montgomery and Tampico and Hahnemann	12.28	.50	3%+.60			1/2%
Remainder of Jobaviess County	11.50	.65	3%+.35			3/4%

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
ELECTRICIANS: (Cont'd)						
Bureau County; Townships of Walnut, Ohio, Lamolite, Clarion, Bureau, Dover, Berlin and Westfield	\$13.93	.80	3%+.70			.2 of 1%
Henry County; Townships of Annawan, Burns, Cambridge, Galva, Kewanee, Weller and Whettersfield; Bureau County; Townships of Arispe, Concord, Fairfield, Gold, Greenville, Hall, Indianatown, Leepertown, Macon, Manilus, Milo, Mineral, Neponset, Princeton, Shelby, Wheatland and Wyanet	11.80	.50	3%+.30			.25%
Rock Island and Whiteside Counties; Cities of Chadwick, Nt. Carroll, Savanna and Thompson in Carroll County, Savanna Ord. Plant in Jobaviess County, and remainder of Henry County	12.09	.55	7.5%			.03
IRONWORKERS:						
Bureau County	13.19	.65	.375			.02
Henry and Rock Island Counties; Thompson and Savanna and Vicinity in Carroll County; E. Dubuque, Galena and Hanover and Vicinities in Jobaviess County, and the western half of Whiteside County	12.97	.65	.375			.11
Lee, Ogle, Stephenson and Winnebago Counties; Eastern half of Whiteside County, and Remainder of Carroll and Jobaviess Counties	12.50	.75	.375			.10
LABORERS:						
Henry County:						
Unskilled	10.03	.45	.60			.035
Semi-skilled	11.13	.45	.60			.035
Skilled	10.43	.45	.60			.035
LINEMEN:						
Bureau County	12.39	.45	3%			.5%
Linemen						
Groundman Equipment Operator - Class 1	11.56	.45	3%			.5%
Groundman Truck Driver: W/Winch	8.65	.45	3%			.5%
W/O Winch	8.24	.45	3%			.5%

NOTICES

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DECISION NO. IL78-2139

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
PILEDRIVERS:						
Bureau County	\$11.68	.75	.70		.03	
Lee County	12.80	.45				
Whiteside County	10.70	.45	.70		.04	
Rock Island and Henry Counties;						
Oregon and South thereof in						
Ogle County	10.71	.45	.70		.04	
TRUCK DRIVERS:						
Stephenson and Winnebago Counties;						
Johavies County (W. of Rt. #28)						
and Carroll County, (S. to Rt. #72 and W. of Rt. #78):						
2-3 Axle Trucks	10.50	.55	1.00			
4 Axle Trucks	10.65	.55	1.00			
5 Axle Trucks	10.85	.55	1.00			
6 Axle Trucks	11.05	.55	1.00			
Lee County; Ogle County, (east of Rt. #51)						
2-3 Axle Trucks	10.65	a29.00	a33.00			
4 Axle Trucks	10.80	a29.00	a33.00			
5 Axle Trucks	11.00	a29.00	a33.00			
6 Axle Trucks	11.20	a29.00	a33.00			

FOOTNOTES:
a. Per week per employee

FOOTNOTES:

a. Per week per employee

DECISION NO. IL78-2139

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
LINEMEN: (Cont'd)						
Bureau County: (Cont'd)	\$ 7.86	.45	3%		.5%	
Groundman Class "A"						
Eastern Part of Carroll Co.;						
(incl. cities of Lanark, Mil-						
ledgeville & Shannon) Jobavies						
Co.; (that portion E. of Apple						
River) Whiteside Co.; (that						
portion east of Clyde, Lyndon,						
Mt. Pleasant & Prophetstown),						
Ogle, Lee, Stephenson,						
and Winnebago Counties						
Linemen - Diggers Operator -						
Crane Operator (15 tons or						
over)	12.83	.45	3%		.50%	
Equipment Operator	10.92	.45	3%		.50%	
Truck Drivers	8.70	.45	3%		.50%	
Groundman	8.41	.45	3%		.50%	
Rock Island, Henry, Remainder						
of Carroll, Jobavies and						
Whiteside Co.:						
Linemen	11.64	.45	3%		$\frac{1}{2}$ of 1%	
Cable Splicers	11.72	.45	3%		$\frac{1}{2}$ of 1%	
Dynamiter	9.91	.45	3%		$\frac{1}{2}$ of 1%	
Groundman Truck Drivers:						
W/O Winch	8.32					
W/O Winch & Groundmen over						
six months	8.05					
Groundman less than six months	6.12					
PAINTERS:						
Winnebago and Stephenson Counties:						
Brush and Roller	10.95	.55				
Open Structural	11.20	.55				
Spray	11.50	.55				
Rock Island, Bureau, Jobavies						
and Henry Counties:						
Brush and Roller	10.62	.55	.85		.18	
Structural Steel and Spray	11.12	.55	.85		.18	
Bridges	11.87	.55	.85		.18	
Lee, Carroll, Ogle and Whiteside						
Counties:						
Brush	9.00					
Structural Steel and Spray	9.35					

DECISION NO. IL78-2139

LABORERS: BUREAU COUNTY

ILL-50-LAB-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	\$10.07	.45	.60		.035
SEMI-SKILLED	10.27	.45	.60		.035
SKILLED	10.47	.45	.60		.035

LABORERS:

UNSKILLED: Common Laborers; Carpenter tenders; tool cribmen; firemen or salamander tenders; flagmen, gravel box men; dumpmen & spotters; form handlers; material handlers; fencing laborers; cleaning lumber; pit men; material checkers; dispatchers; landscapers; unloading explosives; laying of sod; planting of trees; asphalt plant laborers; wrecking laborers; writer of scale tickets; fire shop laborers; fireproofing laborers; janitors; wrecking-dismantling buildings; wallmen & housemovers; driving of stakes; stringlines for all machinery

SEMI-SKILLED: Handling of materials treated with oil, creosote, asphalt or any other foreign material, track laborers; cement handlers; chloride handlers; the unloading and laborers w/steel workers & rebars; concrete tenders & material wheelers; kettlemen & tar-men; tank cleaners; plastic installers; scaffold workers; motorized buggies or motorized unite used for wet concrete or handling of building materials; laborers w/dewatering systems; all sewer workers plus depth; rod & chainmen with land surveyors; vibrator operators; mortar mixer operator; cement silica, clay, fly ash, lime & pasters; handlers (bulk or bag); cofferdam workers plus depth; (on concrete paving) placing, cutting & trying or reinforcing; deck hand; dredge hand & shore laborers; bankmen on floating plant; asphalt workers w/machine; asphalt raker; grade checker

SKILLED: Dynamit man or blasters; caisson workers plus depth; gunnite nozzle men; leadman on sewer work; welders; cutters; burners; torchmen; Chain saw operator; jackhammer & drill operators; layout man; steel form setters (street & highway); air tamping hammerman; signal man on crane, concrete saw operator; screenman on asphalt pavers; laborers tending masons w/hot materials are used; multiple concrete duct-leadmen; lutemen; curb asphalt machine operator; ready-mix scalmen; portable or temporary plant; laborers handling masterplate or similar materials; laser beam operator; coring machine operator

ILL-81-LAB-1-2-3

DECISION NO. IL78-2139

LABORERS: ROCK ISLAND COUNTY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
UNSKILLED	\$ 9.72	.40	1.00		.035
SEMI-SKILLED	9.97	.40	1.00		.035
SKILLED	10.22	.40	1.00		.035

LABORERS:

UNSKILLED Common Laborer; Carpenter Tender; Rod & Chain Man; Flagman; Gravel Box Men; Dumpmen & Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Material Checkers; Dispatchers; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees, Removal of Trees, Asphalt Plant Laborers; Wrecking Laborers; Writers of Scale Ticket, Scaleman (Permanent-Portable or Temporary Plant); Deck Hand

SEMI-SKILLED Laying & Jointing of Telephone Conduit; Darco & Jackhammer Operator; Operator on Power Tools used under the jurisdiction of Laborers; Cement Jumper; Puddler; Form setter Helper; Power & Hand Saw (when clearing timber); Center Strip; Reinforcing in Concrete; Wire Mesh; Concrete Saw; Mortar Mixer; Prime Mover or any mechanical device taking the place of concrete buggy or wheelbarrow; Sand Point Setter; Asphalt Kettlemen; Mastio Asphalt Mixerman or other preparations used on joints; Sheetting hammer Drivers (2-Men) Backup Man or Joint Man with Pipelayer; Laborer in ditch or tunnel on sewer and water main & telephone conduit Gas Distribution Men; Pipe Setter on laterals, Drain Tiles, Culvert Pipe, & Storm Sewer Connections to Catch Basins, Manholes or Main Line; Handling of Materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing Chloride Handlers; the Unloading & Laborers w/steel Workers and Re-Bars; Tunnel Helpers in Free Air; Batch Dumpers; Tank Cleaners; Cofferdam Workers; Barkmen on Floating Plant

SKILLED String or Wireline (1 man); Head Form Setter; Dynamite Man; Asphalt Raker; Tunnel Minor; Pipelayer on Sewer & Water Main; Gunite Nozzle Man; Welders; Cutters; Burners and Torchman; Screedman on Asphalt Pavers; Luteman; Curb Asphalt Machine Operator; Laser Beam Operator; Concrete Darning Machine Operator; Coring Machine Operator; Head Grade Man

ILL-15-PEO-1-2-3

DECISION NO ILL-2-139

POWER EQUIPMENT OPERATORS:

ROCK ISLAND CO., & THE WESTERN
OF HENRY COUNTY

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vocation	
CLASS 1	\$11.80	.65	.70		.08
CLASS 2	11.80	.65	.70		.08
CLASS 3	10.40	.65	.70		.08
CLASS 4	10.40	.65	.70		.08
CLASS 5	9.35	.65	.70		.08

CLASS 1 - Crane, shovel, clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader (servicing two pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator, dipper dredge crane, dual purpose truck (boom or winch), leverman or engineman (hydraulic dredge), mechanic, paving mixer with tower attached (two operators required), pile driver, boom tractor, stationary, portable or floating mixing plant, trenching machine, cleaning and priming machine, end-loader (one half cubic yard or over, on basement excavation work), backfiller (throw bucket), locomotive engineer, Qualified welder, tow or push boat concrete paver, seaman Trav-L-Plant or similar machines, CMI autograder or similar machine, slip form paver, caisson augering machine, mucking, asphalt heater-planer unit hydraulic cranes, Mine hoists

CLASS 2 - Athey, Barber-Greene, euclid or basis loader, asphalt pug mill, fireman and drier, concrete pump, concrete spreader (servicing one paver), bulldozer, end-loader (other than mentioned above), forklift, elevating grader, group equipment greaser, letourneapull and similar machine, DM-10, straddle carrier, hystor winch and similar machines, motor patrol, power blade push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachment, roller on asphalt or blacktop, single drum hoist, Jaeger mix and place machine, pipe bending machine, welding machines (30th), fuller kenyon cement pump or similar machines, automatic cement and gravel batch plants (one stop set-up), Seaman pulvi-mixer or similar machines, propelled sheep foot roller or compactor (used in conjunction with a grading spreader), asphalt spreader screed operator apcco spreader or similar machine, slusher, forklift (over 6,000 lb. cap. or working at heights above 28 ft.) conveyors

ILL-101-LAB-1-2-3

DECISION NO ILL-2-139

LABORERS:

REMAINDER OF COUNTIES

	Fringe Benefits Payments				App. Tr.
	Basic Hourly Rates	H & W	Pensions	Vocation	
CLASS I	\$ 9.80	.55	.60		.035
CLASS II	10.75	.55	.60		.035
CLASS III	11.70	.55	.60		.035

LABORERS:

CLASS I Common Laborers, Carpenter Tenders, Tool Oribmen, Fireman or Salamander Tenders, Flagmen, Gravel Box Men, Dumpers & Spotters, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Fit men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Asphalt Plant Laborers, Wrecking Laborers, Writer of Scale Tickets, Fire Shop Laborers, Fireproofing Laborers, Janitors, Driving of Stakes, Stringlines for all machinery, Rod & Chainmen with Technical Engineers, with Land Surveyors, Asphalt Workers with Machine & Layers, Grade Checker, Singal Man on Crane, Coring Machine Operator, Concrete Workers (Wet), On Concrete Paving, Placing, Cutting and Tying or Reinforcing Steel Form Setters-Street & Highway

CLASS II Scaffold Workers, Handling of materials treated with any foreign matter harmful to skill or looting, Bulk Cement Handlers, Unloading of Re-bars, Tunnel Helpers in Free Air, Batch Dumpers, Mason Tenders, Kettle and Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies or Motorized Unit used for wet concrete or handling of Building Materials, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay Fly Ash, Lime & Plasters, Handlers (Bulk or Bag) Deck Hand, Dredge Hand & Shore Laborers, Bankmen on Floating Plant, Power Tools, Material Selector (Firebrick or Castable Material) Chain saw Operators, Air Tamping Hammerman, Concrete Saw Operator, Front End Man on Chip Spreader, Luteman, Asphalt Maker

CLASS III Jackhammer and Drill Operators, Laborers with De-Watering Systems, Bottom Sewer Workers Plus Depth, Cofferdam Workers plus depth, Caisson Workers plus depth, Gunite Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners and Torchmen, Layout Man and/or Tile Layer, Greenman on Asphalt Pavers, Laborers Tending Masons with Hot Material, Multiple Concrete Duct-Leadman, Curb Asphalt Machine Operator, Ready-Mix Scalmen, Permanent, Portable or Temporary Plant, Laser Dama Operator, Concrete Burning Machine Operator, Underpinning and Shoring of Building, Pump Men

DECISION NO. 1178-2139

POWER EQUIPMENT OPERATORS: (CONT'D)

CLASS 3 - Asphalt booster, fireman and pump operator at asphalt plant, compressor (500 cu. ft. and over), concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachment, Dope pot (agitating motor), Dope chop machine, distributor (back end), Flexplane or similar machines, portable machine fireman, Hydrohammer, power winch on paving work, self-propelled roller or compactor (other than provided for above), pump operator crusher operator, trench machine (40 H. P. and under), power sub grader (on forms), or similar machines, Forklift (5000 or less cap.) Gypsum pump, conveyor over 20 H. P.

CLASS 4 - Air compressor (275 c.f.m. or over) driver on truck crane or similar machines, light plant, mixers (1 or 2 bags), power batching machine (cement auger or conveyor), boiler (engineer or fireman, water pumps, welding machine, mechanical broom, automatic cement and gravel batch plants (two or three stop set-up), small backhoes or endloaders or self-propelled curing machine

CLASS 5 - Oiler, mechanic's helper, water pump (pumping water to paver), mechanical heater (other than steam boiler) belt machine, small putboard motor boat

DECISION NO. 1178-2139

POWER EQUIPMENT OPERATORS:

EASTERN 1/2 OF HENRY COUNTY &
REMAINDER OF BUREAU COUNTY

GROUP 1
GROUP 2
GROUP 3
GROUP 4
GROUP 5

ILL-20-PFO-2-3

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocation	
\$12.22	.45	.80		.05
12.02	.45	.80		.05
11.645	.45	.80		.05
11.37	.45	.80		.05
10.76	.45	.80		.05

POWER EQUIPMENT OPERATORS:

Group 1: Crane, hydro crane, shovels, crane type backfiller, tower cranes-mobile and crawler and stationary derricks and hoist (3-drum); Dragline, Dragline, Drott Yumbo and similar types considered as cranes, backhoe, derrick boats, pile driver and skid rigs, clam shells, locomotive cranes, road pavers - single drum, dual drum and tri batcher, motor patrols and power blades - Dumore, elevating similar types, mechanics central concrete mixing plant operator, blacktop plant operators and plant engineers, grad-all, caisson rigs - requires oiler, skimmerscoopkerhing scooper, dredges (all types) hop-toe-crane type (require oiler), Escalated rate on crane and derricks booms, \$.01 per hour, per ft., over 80' including jib all cherry pickers, cherry pickers (over 15 tons require oiler), work boat, Ross carrier, helicopter, dozen and tournadozer

Group 2: Asphalt heater and planter combination (used to plant streets), trench machines, pumpcrete - beltcrete - squeezecrete - screw type pumps and Gysum, bulker and pump, dinkeys, tournapulls-all, and similar types, multiple unit earth movers, \$.25 per hour for each scoop over one scoops (all sizes), pushcats, endloaders (all types), side booms, P-H one-pass soil cement machines and similar types, wheel tractors (industrial or farm-type with dozer hoe - end loader or other attachments, backfillers, asphalt surfacing machines euclid loader, fork lifts, formless finishings, jeep w/ditching machine or other attachments, tunneluger, rock crusher, automatic cement and gravel batching mobile drills (soil testing) and similar types, pugmill with pump, flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), power launches, boring machine, C.M.I. and similar types (require oiler), all (1) and (2) drum hoists, dewatering system, straw blower, hydro-seeder, boring machine, hydro-boom, starting engineer on pipeline, F.W.D. and similar types

IL-10-PEO-2-3

DECISION NO. IL78-2139
 POWER EQUIPMENT OPERATORS:
 REMAINDER OF COUNTIES

CLASS I
 CLASS II
 CLASS III
 CLASS IV
 CLASS V

Basic Hourly Rates	Fringe Benefits Payments			App. Tr.
	H & W	Pensions	Vacation	
\$12.20	1.00	1.00	.50	.05
11.65	1.00	1.00	.50	.05
10.90	1.00	1.00	.50	.05
9.80	1.00	1.00	.50	.05
8.80	1.00	1.00	.50	.05

POWER EQUIPMENT OPERATORS:

CLASS I Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redmix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27E cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, linden, Peco & machines of a like nature, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, derricks, all, derrick boats, derricks, travelling, dredges, euclid loader, elevating type, gradall, and machines of a like nature, grader, elevating hoists, 1,2 & 3 drum, locomotives, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., piledrivers & skid rig, pre-stress machine, pump cotes dual ram (requiring frequent lubrication & water), rock drill crane type, slip form paver, straddle bugies, tractor w/boom, tractaire w/ attachments, trenching machine, underground boring &/or mining machine under 5 ft., wheel excavator widener (Apsco)

CLASS II Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete breaker or hydro-hammer, concrete grinding machine, concrete mixer or paver 75 Series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & scaling machine, finishing machine, concrete grader, motor patrol auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky, pump cotes; Squeeze cotes; screw type pumps Gypsum bulker & pump, rock drill (self-propelled), roto-tiller, seaman, etc. self-propelled scoops; tractor drawn, self-propelled compactor, spreader, chipstone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc. tug boats

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POWER EQUIPMENT OPERATORS: (CONT'D)

Group 3: Apsco spreader or similar types, tractors (track-type) without power units pulling rollers, rollers on asphalt - breck or macadam, concrete breakers, concrete spreaders, center stripper, cement finishing machines, vibro tamers (all similar types) self-propelled, mechanical bull floats, mixers over three bag to 27E, winch and boom trucks, tractor pulling power blade or elevating grader, Porter Rex rail, Clary screed, mule pulling rollers, pugmill without pump, Barber Greene or similar loaders, track-type tractors with power unit attached (minimum fireman, screed man on laydown machine, and spray machine on paving

Group 4: Power subgrader, oil distributor, straight tractor, track-air (without attachments), curb machines, paver ditch machines, truck crane oiler, and truck type hoptoe oilers

Group 5: Herman Nelson Heater, Dravo, Warner, Silent glo and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser crawler crane and skid oilers, rollers 5 ton and under on earth and gravel, form graders, pump (1) or (2), light plant (1) or (2), generator (1) or (2), conveyor (1) or (2), welding machine (1) or (2) mixer 3 bags and under, and bulk cement plant

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tender, compressor & throttle valve, concrete mixer (2 bags & over) conveyor, portable, fireman on boiler, forklift trucks, greaser engineer, grouting machine hoists, automatic, hoists, all elevators, hoists, tugger, single drum, jeep diggers, pipe power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch trucks with "A" frame, work boats, tamper, form motor driven

CLASS IV Air Compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6)

CLASS V Oilers

DECISION NO. 1178-2139

TLL-82-JD-1-2-3

TRUCK DRIVERS
REMAINDER OF COUNTIESGROUP I
GROUP II
GROUP III

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$10.125	.65	a31.00		
10.525	.65	a31.00		
10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, Greasers & fixemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydro lifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2, 3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

DECISION NO. MA78-2155

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
LABORERS: (Cont'd)					
Air track operators, Block pavers, Rammers and curb setters	.60	.75			.10
Powdermen and blasters	.60	.75			.10
Open air caisson, underpinning work and test boring crew:					
Bottom Man	.60	.75			.10
Top Man	.60	.75			.10
Driller	.60	.75			.10
Helper	.45	.25			.01
LATHERS:	.45	.25			.01
Drywall	.45	.25			.01
LINE CONSTRUCTION:					
Linemen	.70	3%	d		
Equipment Operators	.70	3%	d		
Driver Groundmen	.70	3%	d		
MILLWRIGHTS	.90	1.00			.10
PAINTERS:					
Brush and Tapers	.88	.55			.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	1.1733	.7333			.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	1.1733	.7333			.0667
Swing Stage under 40' Steel	.88	.55			.05
Swing Stage over 40' Steel	.85	1.00			.05
PILEDRIVERS	10.90				
PLUMBERS AND STEAMFITTERS:					
Monroe, Towe and Western	.90	.75			.02
part of Charlemont	10.02	.65	.40		.02
Orange	.85	.85			.02
Remainder of County					
ROOFERS:					
Composition, damp wagherproof	1.00	2.03			.06
Slate, tile, precast concrete	1.00	2.03			.06
SHEET METAL WORKERS	1.09	1.46			.06
SPRINKLER FITTERS	.75	1.05			.06
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MA78-2155

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
BUILDING, HEAVY and HIGHWAY CONSTRUCTION					
FRANKLIN COUNTY					
ASBESTOS WORKERS	.94	\$ 1.25			.01
BOILERMAKERS	1.05	10%			.02
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, MARBLE, TILE, TERRAZZO					
WORKERS, CAULKER, And CLEANER, POINTER	.70	.95			.06
CARPENTERS & SOFT FLOOR LAYERS:					
Irving, Warwick, Orange and North Orange	.60	1.00			.07
Remainder of County	.45	1.00			.02
Monroe and Monroe Bridge	.60	1.00			.04
ELECTRICIANS:					
Hawley, Monroe and Rowe	.55	3%+.94			.02
Remainder of County:					
Electrical contracts \$75,000.00 and over	.85	3%+.40			.02
Electrical contracts under \$75,000.00	.85	3%+.40			.02
Shaft and tunnel work	.85	3%+.40			.02
ELEVATOR CONSTRUCTORS	.745	.29	3%+a+b		.02
ELEVATOR CONSTRUCTORS' HELPERS	.745	.29	3%+a+b		.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)					
GLAZIERS	.47	.45			
IRONWORKERS:					
Structural, Ornamental and Reinforcing	1.10	1.85			.09
LABORERS: BUILDING					
Laborers, Carpenter tenders, Wrecking laborer	.60	.75			.10
Asphalt rakers, Carbide core drillers, Chain saw operator, Pipelayers, Jackhammer and paving breakers operators, Barco-type jumping tampers, Laser beam operators, Concrete pump operators, Mason tenders, Mortar mixers, and Ride-on motorized buggy operator and plasterers tenders					
	.60	.75			.10

DECISION NO. MAY8-2155

BUILDING, HEAVY and HIGHWAY CONSTRUCTION HAMPDEN COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	\$ 10.65	.94	1.25		.01
BOILERMAKERS	11.80	1.05	1.08		.02
BRICKLAYERS:					
Cement masons, Marble					
masons, Plasterers,					
Stone masons, Terrazzo					
workers, and Tile setters					
CARPENTERS & SOFT FLOOR LAYERS:	10.05	.70	.95		.06
Holyoke	10.10	.45	1.00		.02
Remainder of County	10.00	.60	.65		.02
ELECTRICIANS:					
Chester, Holyoke & that portion					
of Chicopee Township north of					
the following line:					
McKinstry Avenue from the					
Connecticut River to Gratten					
Street, South on Gratten to					
Lafayette Street, east on					
Lafayette to York Street,					
North on York to McKinstry,					
east on McKinstry to Grady					
Road & projects to the West-					
over Air Force fence & that					
area north of Westover field:					
Contracts 75,000 & over	10.76	.85	384.40		.02
Contracts under \$75,000	8.60	.85	384.40		.02
Shaft & tunnel work	11.26	.85	384.40		.02
Remainder of County	10.88	.75	384.30		.03
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	708JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	508JR				
(PROB.)	9.45	.47	.45		
GLAZIERS					
IRONWORKERS:					
Ornamental, Reinforcing and					
Structural	10.50	1.10	1.85		.09
LABORERS (Building)					
Laborers, Wrecking, laborers and					
carpenter tenders	8.25	.60	.75		.10
Asphalt rakers, Carbide Cor.					
Driller Ops., Saw Ops., Pipe-					
layers, Jackhammer & Paving					
Breaker Op., Barco-type					
jumping tampers, Laser Pump					
op., concrete pump ops.					

DECISION NO. MAY8-2155

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt rakers, Carbide core					
driller operators, Saw Operators,					
Pipelayers, Jackhammer and Pav-					
ing breaker operator, Barco-type					
jumping tampers, Laser beams					
tors, Mason Tenders, Mortar mix-					
ers and ride-on motorized buggy					
operators and plasterers tenders	8.50	.60	.75		.10
Air track operator, Block pavers	8.75	.60	.75		.10
Brammers and Curb setters	9.00	.60	.75		.10
Blasters and Powdermen					
Open air caisson, Cylindrical					
work and boring crew:	9.00	.60	.75		.10
Bottom Man	8.25	.60	.75		.10
Top Man					
Testing Boring:					
Driller	9.12	.60	.75		.10
Helper	8.37	.60	.75		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	10.92	.40	18	d	3/8 of 18
Groundmen, Driver	7.87	.40	18	d	3/8 of 18
Equipment Operator	10.19	.40	18	d	3/8 of 18
MARBLE, MOSAIC & TERRAZZO					
WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs					
& materials thinned with anything					
other than water &/or mineral					
spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water					
&/or mineral spirits, excluding					
epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
PILEDRIVERS	10.90	.85	1.00		.10
PLUMBERS	10.30	1.01	1.10	e	.10
ROOFERS: Composition, damp and					
waterproofing	9.215	1.00	2.03		
Slate, Tile, Precast Concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS	10.68	.57	1.45	.08	.03

DECISION NO. MAY8-2155

BUILDING, HEAVY and HIGHWAY CONSTRUCTION HAMPSHIRE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$ 10.65	.94	\$ 1.25		.01
BOILERMAKERS	11.80	1.05	1.08		.02
BRICKLAYERS, PLASTERERS, CEMENT MASON, STONE MASONS, MARBLE TILE and TERRAZZO WORKERS, CAULKER, CLEANER, POINTERS	10.05	.70	.95		.06
CARPENTERS:					
Amherst, Belchertown, Granby, South Hadley, and PLeham	10.10	.45	1.00		.02
Remainder of County	10.00	.60	1.00		.02
ELECTRICIANS:					
Belchertown, Ware	10.88	.75	38+.30		.03
Middlefield, Cummington and Plainfield	10.59	.55	38+.94		.02
Remainder of County:					
Electrical contracts under \$75,000.00	8.60	.85	38+.40		.02
Electrical contracts \$75,000.00 and over	10.76	.85	38+.40		.02
Shaft and Tunnel Work	11.26	.85	38+.40		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.50	1.10	1.85		.09
LABORERS: (BUILDING)					
Laborers, Wrecking laborers, Carpenter and Cement finishers tenders	8.25	.60	.75		.10
Asphalt rakers, Carbide core driller operators, Chain saw operators, Pipelayers, Jack- hammer and Paving breaker operator, Barco-type jumping tamperers, Laser beam operators, Concrete pumps operators and Wagon drill operators, Mason tenders, Mortar mixers and Ride-on motorized buggy operators and plasterer tenders	8.50	.60	.75		.10

DECISION NO. MAY8-2155

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Air track operators, Block pavers, Ramblers and Curb setters	\$ 8.75	.60	.75		.10
Powdermen and Blasters	9.00	.60	.75		.10
Open air caisson, Underpinning work and boring crew:					
(ENTIRE COUNTY)					
Bottom Man	9.00	.60	.75		.10
Top Man	8.25	.60	.75		.10
Test Boring:					
Driller	9.12	.60	.75		.10
Helper	8.37	.60	.75		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	10.92	.70	3%	d	
Equipment Operator	10.19	.70	3%	d	
Driver Groundman	7.87	.70	3%	d	
MARBLE & TILE SETTERS HELPERS AND TERRAZZO WORKERS' HELPERS	8.95	.90	1.00		.10
MILLWRIGHTS	10.90				
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERS	10.90	.84	1.00		
PLUMBERS and STEAMFITTERS:					
Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware-	10.30	1.01	1.10	e	.10
Plumbers	10.68	.56	1.45	f	.03
Steamfitters					
Remainder of County:	10.95	.85	.85		.02
PLUMBERS and Steamfitters					
ROOFERS:					
Composition, damp, waterproof	9.215	1.00	2.03		
Slate, tile, precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08

NOTICES

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DECISION NO. MA78-2155

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 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
- b. Holidays: A through F, and the day after Thanksgiving
- c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve provided the employee has worked 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 through F, provided the employee has been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus on floating holiday, Washington's Birthday and Patriots Day.
- e. Holidays: Independence Day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.
- f. July 4th and Labor Day - \$.08 per hour employer contribution to make two paid holidays.

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.18	.95	1.00	a		.07
9.98	.95	1.00	a		.07
9.78	.95	1.00	a		.07
9.41	.95	1.00	a		.07
8.58	.95	1.00	a		.07
8.09	.95	1.00	a		.07
7.29	.95	1.00	a		.07

CLASSIFICATIONS

Class I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradales, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three drum hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yds. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-loader-¾ yd. 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), Grades, Front End Loaders - 4 yds. to 5½ yds., two drum hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

Class III: Combination Backhoe - Loader - up to ¾ yd. Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-propelled or tractor drawn, Tireman, Front End Loaders - up to 4 yds., 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

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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 up to 15 feet

CLASS VI Compactors (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 Compactors (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 through F, Veterans' Day and Columbus Day

DECISION NO. MA78-2155

HEAVY AND HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS I	\$10.18	.95	1.00	a	.07
CLASS II	9.98	.95	1.00	a	.07
CLASS III	9.78	.95	1.00	a	.07
CLASS IV	9.41	.95	1.00	a	.07
CLASS V	8.58	.95	1.00	a	.07
CLASS VI	8.09	.95	1.00	a	.07
CLASS VII	7.29	.95	1.00	a	.07
CLASS VIII	10.68	.95	1.00	a	.07

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-5 1/2 yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, 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 5 1/2 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, Tirmen, 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

DECISION NO. MA78-2155

BUILDING, HEAVY AND HIGHWAY
CONSTRUCTION

TRUCK DRIVERS

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.515	.75	.80	a+b	
8.665	.75	.80	a+b	
8.715	.75	.80	a+b	
8.815	.75	.80	a+b	
8.915	.75	.80	a+b	
9.165	.75	.80	a+b	
9.415	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck
 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 other 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)

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.

DECISION NO. MA78-2155

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 troller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oilier, 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; Veteran's Day; Thanksgiving Day and Christmas Day

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 8.25	.60	.75		.10
8.50	.60	.75		.10
8.75	.60	.75		.10
9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt takers, 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

SUPERSEDES DECISION

STATE: PUERTO RICO
COUNTY: ISLAND WIDE
DECISION NO.: PR78-3092
DATE: DATE OF PUBLICATION
July 8, 1977 in 42 FR 35602
Supersedes Decision No. PR77-3098, dated
DESCRIPTION OF WORK: Heavy and Highway Construction.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
3.32				
3.00				
2.90				
2.50				
3.06				
2.75				
3.50				
3.83				
3.15				
3.25				
4.34				
4.05				
4.20				
4.00				
3.00				
4.18				
3.50				
4.28				
3.98				
4.00				
2.90				
4.00				
4.29				
3.33				
3.61				
3.25				
3.23				
3.25				
4.07				
3.17				
4.35				
4.00				
4.00				
3.70				

Welders-receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDLAS DULISION

STATE: VIRGINIA

COUNTIES: HENRICO AND THE
INDEPENDENT CITY OF

DECISION NO.: VA78-3074

DATE: DATE OF PUBLICATION
May 12, 1978 in 43 FR 20719DESCRIPTION OF WORK: Building Construction (does not include single family
homes and garden type apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 9.78	.80	.75			.01
10.70	1.00	1.10			.02
9.90	.65	.30			.02
9.10	.45	.45			.02
8.60					
8.70					
10.91	5%	3%			3%
11.66	5%	3%			3%
9.66	.745	.56	a+b		.025
6.76	.745	.56	a+b		.025
4.83					
5.95	.30	.10			.01
10.25	.55	.50			.05
10.625	.55	.50			.05
10.875	.55	.50			.05
5.80	.20	.20			.05
5.90	.20	.20			.05
6.05	.20	.20			.05
6.15	.20	.20			.05
6.20	.20	.20			.05

ASBESTOS WORKERS

BOILERMAKERS

BRICKLAYERS AND STONEMASONS

CARPENTERS AND SOFT FLOOR LAYERS

CEMENT MASONS

CEMENT MASONS MACHINE MAN

ELECTRICIANS:

ZONE I-within a 12 air mile

radius of Staples Mills Road

and Broad Street in the City

of Richmond

ZONE II-remainder of city of

Richmond and Henrico County

ELEVATOR CONSTRUCTORS

ELEVATOR CONSTRUCTORS HELPERS

ELEVATOR CONSTRUCTORS HELPERS

PROBATIONARY

GLAZIERS

IRONWORKERS-STRUCTURAL, REIN-

FORCING AND ORNAMENTAL:

ZONE I-up to 10 miles from

Capital Square

ZONE II-from 10 miles to 30

miles radius

ZONE III-from 30 miles and

beyond

LABORERS:

Unskilled

Tenders, Motorized Georgia Buggy

Operators, Nozzlemen (gunite or

sandblasting), Concrete Saw

Operators, Air Tool and Vibrator

Operators

Mortar Mixers, Hod Carriers,

Pipelayers, Caulkers, Marble and

Tile and Terrazzo Workers Helpers

Burners (wrecking)

Floor, Base and Terrazzo

Grinders

DECISION NO. VA78-3074

LABORERS (CONT'D)

Wagon Drill, Air Trac and

Similar Drills

Powdermen

LATHERS:

Plasterer and Drywall Finish

Sheet Rock Applicator

LEADBURNERS

LINEMEN AND CABLE SPLICERS:

ZONE I-within a 12 mile air

radius of Staples Mill Road

and Broad Street in the City

of Richmond

ZONE II-remainder of City of

Richmond and Henrico County

MARBLE, TILE AND TERRAZZO WORKERS

MILLWRIGHTS

PAINTERS:

Brush, Paperhangers, Tapers and

Finishers

Structural Steel, Swing Stage

and Bosun Chair

Scaffold or Other Hazard Work

Over 50 Feet

Spray

Sandblasting, Elevated Tanks,

Smoke Stack and All Towers

PILEDRIVERS AND DOCKBUILDERS

PLASTERERS

PLUMBERS AND STEAMFITTERS

ROOFERS COMPOSITION

ROOFERS HELPERS

SHEET METAL WORKERS:

City of Richmond

Remainder of County

SPRINKLER FITTERS

WELDERS-receive rate prescribed
for craft performing operation
to which welding is incidental.

DECISION NO. VA78-3074

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
F-Christmas Day

FOOTNOTES:

- a. Employer contributes 8% 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. Paid Holidays: A through F, Pay after Thanksgiving.
- c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. VA78-3074 POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:	Fringe Benefits Payments				Education and/or Appl. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
GROUP 1	9.90	.525	.45		.08
GROUP 2	7.80	.525	.45		.08
GROUP 3	6.35	.525	.45		.08
GROUP 4	6.15	.525	.45		.08
GROUP 5	5.96	.525	.45		.08

CLASSIFICATIONS:

GROUP 1

Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2

Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pumpcrete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3

Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 Kw or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4

Firemen

GROUP 5

Oilers

SUPERSEDES DECISION

STAT. VIRGINIA

COUNTIES: YORK AND THE CITIES
OF HAMPTON AND NEWPORT NEWS
(including Langley AFB, Fort
Eustis and Fort Monroe)

DATE: DATE OF PUBLICATION

May 12, 1978 in 43 FR 26721

DECISION NO.: VA78-3042 dated May 12, 1978 in 43 FR 26721
Supersedes Decision No. VA78-3042 dated May 12, 1978 in 43 FR 26721
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes
and garden type apartments up to and including 4 stories), Sewer and Water Line
Construction.

BUILDING CONSTRUCTION

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
9.75	.60	.60			.02
10.70	1.00	1.10			
9.50		.45			.02
9.10	.45				
8.60					
8.70					
9.85	6%	8%			1%
10.10	6%	8%			1%
10.85	6%	8%			1%
11.10	6%	.8%	a+b		.025
8.80	.745	.56	a+b		.025
6.16	.745	.56	a+b		
4.40					
5.95	.30	.10			.01
9.90	.65	1.00			.08
5.80	.20	.20			.05
5.90	.20	.20			.05
6.05	.20	.20			.05
6.15	.20	.20			.05
6.20	.20	.20			.05

ASBESTOS WORKERS

BOILERMAKERS

BRICKLAYERS AND STONE MASONS

CARPENTERS AND SOFT FLOOR LAYERS

CEMENT MASONS

CONCRETE WORKERS

ELECTRICIANS

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DECISION NO. VA78-3075

LABORERS (CONT'D)

WAGON DRILL AND AIR TRAC

POWDERMEN

LATHERS

LINE CONSTRUCTION:

ZONE I-within a 16 air mile

radius of 7812 Warwick Blvd.,

Newport News:

LINEMEN

CABLE SPLICER

ZONE II-beyond a 16 air mile

radius of 7812 Warwick Blvd.,

Newport News:

LINEMEN

CABLE SPLICER

MARBLE SETTERS

MILLWRIGHTS

PAINTERS:

(York County from a point on the

north shore of Queens Creek at

the intersection of York River

due west to a point on the

eastern shore of James River

including all cities therein

the cities of Hampton and

Newport News.)

BRUSH AND ROLLER

PAPERHANGER, TAPER, SPRAY,

ROLLER WITH A 6" HANDLE OR

OVER, STRUCTURAL STEEL TO 74"

FROM THE GROUND UP, SWING STAGE,

UNDER 40", SANDEBLASTING

SWING STAGE OVER 40", SPRAY EPOXY

EPOXY BRUSHED OR ROLLED

ALL WORK OVER 74" FROM THE

GROUND

BITUMINOUS COATINGS, HOT

CREOSOTE

Basic

Hourly

Rates

H & W

Pensions

Vacation

Education

and/or

Appr. Tr.

6.30

6.55

10.25

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9.85

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DECISION NO. VA78-3075	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PAINTERS: REMAINDER OF COUNTY OF YORK	8.40		.30		
BRUSH AND ROLLER PAPERHANGING, TAPE, SPRAY, ROLLER WITH A HANDLE 6' OR OVER, STRUCTURAL STEEL 74' FROM THE GROUND UP, SWING STAGE UNDER 40', SANDBLASTING	8.75		.30		
SWING STAGE OVER 40', EPOXY SPRAYED	9.00		.30		
EPOXY BRUSHED OR ROLLED	8.65		.30		
ALL WORK OVER 74' FROM THE GROUND	8.90		.30		
BITUMINOUS COATINGS, HOT CREOSITE	9.80		.30		
FILEDRIVERSMEN AND DOCKBUILDERS	8.30	.45	.45		
PLASTERERS	10.76				
PLUMBERS AND STEAMFITTERS	10.20	.45	.45		.02
ROOFERS COMPOSITION	6.20				
ROOFERS HELPERS	4.35				
SHEET METAL WORKERS:					
NEWPORT NEWS AND HAMPTON YORK COUNTY	9.80	.45	.55		.005
SPRINKLER FITTERS	10.05	.45	.55		.005
TERRAZZO WORKERS AND TILE SETTERS	9.93	.75	1.05		.08
WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.	9.15				

PAID HOLIDAYS:

A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

FOOTNOTES:

- Holidays: A through F, Day after Thanksgiving.
- Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit

DECISION NO. VA78-3075	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
GROUP 1	9.80	.525	.45		.08
GROUP 2	7.80	.525	.45		.08
GROUP 3	6.35	.525	.45		.08
GROUP 4	6.15	.525	.45		.08
GROUP 5	5.96	.525	.45		.08

CLASSIFICATIONS:

GROUP 1

Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2

Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pumpcrete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3

Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-ton power hoist, generator (1200 KW or larger), pumps (over 2 inches, including well-points), A-frame trucks, mechanic's helper

GROUP 4

Firemen

GROUP 5

Oilers

SUPERSEDING DECISION

STATE: VIRGINIA

LOCATION: THE CITIES OF

CHESAPEAKE,

PORTSMOUTH AND VIRGINIA BEACH

DATE: DATE OF PUBLICATION

DECISION NO.: VA78-3076
 Supersedes Decision No. VA78-3041 dated May 5, 1978 in 43 FR 19579.
 DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$5.30					
4.50					
3.00					
3.24					
3.30					
5.25					
4.70					
7.30					
4.20					
3.75					
4.00					
3.50					
1.15					
3.00					
3.63					

CARPENTERS

CEMENT MASONS

LABORERS:

LABORER

PIPELAYERS

TRUCK DRIVERS

POWER EQUIPMENT OPERATORS:

BACKHOE

BULDOZER

CRANE

FORK LIFT OPERATOR

FRONT END LOADER

LOADER OPERATOR

MOTOR GRADER

OILER

ROLLER

SCRAAPER

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 9.70	.60	.60			
10.70	1.00	1.10			.02
9.33	.60	.20			.03
9.10	.45	.45			.02
8.60					
8.70					
9.75	5%	8%	a		1%
8.80	.745	.56	b+c		.025
6.16	.745	.56	b+c		.025
4.40					
5.95	.30	.10			.01
9.90	.65	1.00			.08
5.80	.20	.20			.05
5.90	.20	.20			.05
6.05	.20	.20			.05
6.15	.20	.20			.05
6.20	.20	.20			.05
6.30	.20	.20			.05
6.55	.20	.20			.05
10.25		.25			
10.75	.40	.25	d		.01
9.75	5%	8%			

ASBESTOS WORKERS

BOILERMAKERS

BRICKLAYERS AND STONE MASONS

CARPENTERS AND SOFT FLOOR LAYERS

CEMENT MASONS:

Cement Masons

Machine and Scaffold Men

ELECTRICIANS AND CABLE SPlicERS

ELEVATOR CONSTRUCTORS

ELEVATOR CONSTRUCTORS HELPERS

ELEVATOR CONSTRUCTORS HELPERS

GLAZIERS

IRONWORKERS:

Reinforcing, Ornamental,

Structural, Riggers, Fence

Erectors, Machinery Movers

LABORERS:

Unskilled

Tenders, Motorized Georgia

Buggy Operators, Nozzlemen

(gunite or sandblasting),

Concrete Saw Operators, Air

Tool and Vibrator Operators

Mortar Mixers, Hod Carriers,

Pipelayers, Caulkers, Marble,

Tile and Terrazzo Workers

Helpers

Burners (wrecking)

Floor, Base and Terrazzo

Grinders

Wagon Drill and Air Trac

Powdermen

LATHERS

LEAD BURNERS

LINE CONSTRUCTION:

Linemen and Cable Splicers

DECISION NO. VA78-3076

DECISION NO. VA78-3076

MARBLE SETTERS

MILLWRIGHTS

PAINTERS:

Brush and Roller

Structural Steel from Ground to 74 feet

Spray, Paperhangers and Glove Work

Any Work Over 74 Feet From the Ground

Bituminous Coating and Hot

Creosote

Swing Stage Under 40 Feet,

Rollers With 6 Feet Handles

and Over, Epoxy Brushed or

Rolled

Swing Stage Over 40 Feet

Epoxy, Sprayed

Sandblasting

PILED RIVEMEN AND DOCKBUILDERS

PLASTERERS

PLUMBERS AND STEAMFITTERS

ROOFERS COMPOSITION

ROOFERS HELPERS

SHEET METAL WORKERS

SPRINKLER FITTERS

TERRAZZO AND TILE WORKERS

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
8.20	.60	.20		.01
10.40	.45	.45		
8.25		.40		
8.75		.40		
8.60		.40		
9.55		.40		
9.90		.40		
8.50		.40		
8.75		.40		
8.85		.40		
9.00		.40		
8.30	.45	.45		
10.76		.65		.09
9.80	.70			
6.20				
4.35				
9.55	.45	.55		.005
9.93	.75	1.05		.08
8.20	.60	.20		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Workmen shall be allowed 2 hours with pay at the start or at the end of the work day on State and National Election days; Tuesday following the first Monday in November, provided they are qualified to and Vote.
- Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years service as vacation pay credit.
- Holidays: A through F, Day after Thanksgiving.
- Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. VA78- 3076

POWER EQUIPMENT OPERATORS -
BUILDING CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP 1	\$9.80	.525	.45		.08
GROUP 2	7.80	.525	.45		.08
GROUP 3	6.35	.525	.45		.08
GROUP 4	6.15	.525	.45		.08
GROUP 5	5.96	.525	.45		.08

CLASSIFICATIONS

GROUP 1
Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2
Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crate, trenching machine, mixer larger than 16 S, fork lift

GROUP 3
Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4
Firemen

GROUP 5
Oilers

[FR Doc. 78-30890 Filed 11-2-78; 8:45 am]