AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

9-4-81
Vol. 46 No. 172
Pages 44415-44732

federal register

Friday
September 4, 1981

Highlights

44508 **Grant Programs—Social Services** HHS/HDSO establishes Federal allotments to States for social services block grants for FY 1982.

44712 **Food Stamp Programs** USDA/FNS restricts eligibility and reduces benefits for certain households. (Part VIII of this issue)

44452 **Child Nutrition Programs** USDA/FNS proposes to change meal pattern and crediting requirements for the National School Lunch, School Breakfast and Child Care Food Programs.

44424 **Aviation Safety** DOT/FAA establishes certain procedures for operation of National Air Traffic Control System.

44444 **Mortgage Insurance and Home Improvement Loans** HUD/FHC increases maximum allowable finance charge on Title I property improvement, mobile homes combination and mobile home lots, historic preservation, and insured home and project loans. (2 documents)

44420 **"NOW" Accounts** FRS suspends effective date on eligibility of depositors to maintain accounts at member banks.

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

44422 **Credit Unions** NCUA allows Federal credit unions to offer "All Savers Certificates" (tax-exempt savings certificates).

44421 NCUA issues interpretive ruling and policy statement on examination of companies engaged by credit unions to perform accounting or EDP services.

44730 **Comprehensive Employment and Training Act** Labor/ETA issues rules on Governors Special Grant Programs under Title II and Youth Programs under Title IV. (Part IX of this issue)

44477 **Gasoline** EPA proposes to substitute (R+M)/2 for Research Octane Number to measure unleaded gasoline octane.

44696 **Energy** DOE/ERA proposes rule establishing administrative procedures for applications to import or export natural gas. (Part VII of this issue)

44686 **Minority Businesses** DOE establishes policies and procedures for granting loans for bid or proposal preparation by minority business enterprises seeking DOE contracts and assistance. (Part VI of this issue)

44590 **Minimum Wages** Labor/ESA/W&H publishes minimum wages for Federal and Federally assisted construction. (Part II of this issue)

44548 **Small Businesses** SBA's Regulatory Identification Working Group requests comments on specific regulations which burden small businesses.

44660 **Endangered and Threatened Wildlife and Plants** Interior/FWS amends list of species for which import and export are controlled. (Part III of this issue)

Privacy Act Documents

44494 DOD
44504 HHS/Office of Child Support Enforcement
44509 HHS/PHS

Regulatory Flexibility Review Plan

44415 OPM

44549 **Sunshine Act Meetings**

Separate Parts of This Issue

44590 **Part II, Labor/ESA/W&H**
44660 **Part III, Interior/FWS**
44677 **Part IV, Interior/BLM**
44680 **Part V, USDA/AMS**
44686 **Part VI, DOE**
44696 **Part VII, DOE/ERA**
44712 **Part VIII, USDA/FNS**
44730 **Part IX, Labor/ETA**

Contents

Federal Register
Vol. 46, No. 172
Friday, September 4, 1981

Agricultural Marketing Service
RULES
44416 Lemons grown in Ariz. and Calif.
PROPOSED RULES
44473 Lemon juice; grade standards
44680 Warehouse examination or inspection; fees for services

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Food Safety and Inspection Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.

Animal and Plant Health Inspection Service
NOTICES
Meetings:
44484 National Poultry Improvement Plan General Conference Committee

Blind and Other Severely Handicapped, Committee for Purchase from
NOTICES
44493, 44494 Procurement list, 1981; additions and deletions (3 documents)

Child Support Enforcement Office
NOTICES
44504 Privacy Act; systems of records

Civil Aeronautics Board
NOTICES
Hearings, etc.:
44485 Air Caravane, Inc., et al.; cancellation of foreign air carrier permits
44486 Southeast Alaska Airlines; Subpart Q certificate authority
44486 Texasamerican Airways, Inc.; fitness investigation (2 documents)

Civil Rights Commission
NOTICES
44549 Meetings; Sunshine Act

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
NOTICES
44549 Meetings; Sunshine Act

Commodity Futures Trading Commission
NOTICES
44549 Meetings; Sunshine Act

Defense Department
NOTICES
44494 Privacy Act; systems of records

Economic Regulatory Administration
PROPOSED RULES
44696 Natural gas, import and export; administrative procedures
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
44495 Federal Paper Board Co., Inc.

Employment and Training Administration
RULES
Comprehensive Employment and Training Act programs:
44730 Omnibus Budget Reconciliation Act of 1981; implementation for Governors special grant and youth programs
NOTICES
Adjustment assistance:
44532 Carpenter Technology Corp. et al.
44533 Dayton-Walther Corp.
44534 Inspiration Consolidated Cooper Co.
44534 McEwen Manufacturing Co.
44534 Mr. Fine, Inc.
44534 Municipal Castings, Inc.
44534 National Gypsum Co.
44535 Portera Garments, Inc.
44535 Progressive Machinery Corp.
44535 S.M. Frank & Co., Inc.
44535 Samoset Processing Co.
44535 Tag-A-Long Handbags & Accessories, Inc.
44536 Tel-Aviv Fashions, Inc.
44536 Tenna Corp.
44533 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
NOTICES
44590 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Calif., Colo., Fla., Ga., Hawaii, Ky., Mass., Mich., Miss., N.Y., Okla., Pa., S. Dak., and Utah)

Energy Department
See also Economic Regulatory Administration
RULES
44686 Financial assistance; loans to minority business enterprises for bid or proposal preparation

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
44447 Indiana
44448 Maryland
PROPOSED RULES
Air programs; fuel and fuel additives:
44477 Unleaded gasoline; measure of octane

Air quality implementation plans; approval and promulgation:
44476 Experimental State implementation plan processing techniques
NOTICES
Environmental statements; availability, etc.:
44499 Agency statements; weekly receipts
44500 Gulf of Mexico; offshore platform hazardous waste facility
Pesticides; experimental use permit applications:
44498 Albany International et al.
Toxic and hazardous substances control:
44495 Premanufacture notices receipts

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
44424 Air traffic control system; interim operations plan; final rule and request for comments

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
44480, 44481 Michigan (2 documents)
44478 Montana
NOTICES
Hearings, etc.:
44500 Answerite Professional Telephone et al.
44500 Continental Telephone Co. of California

Federal Home Loan Bank Board
NOTICES
Federal home loan bank system:
44501 Demand deposit services; fee schedule; request for comments; correction

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
44444 Interest rate changes (2 documents)

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
44420 Depositors eligible to maintain NOW accounts; suspension of effective date
NOTICES
Applications, etc.:
44503 Chaffee Bancorporation, Inc.
44503 Cumberland Bancorp, Inc.
44503 Denver West Bankshares, Inc.
44503 First Lafayette Bancorporation
44503 First Lakefield Bancorporation, Inc.
44503 Galena Bancorp, Inc.
Bank holding companies; proposed de novo nonbank activities:
44501 Chemical New York Corp. et al.

Fish and Wildlife Service
RULES
Endangered Species Convention:
44660 Appendices; amendments
NOTICES
Migratory birds:
44518 National waterfowl management plan; draft availability

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
44443 Acepromazine maleate tablets
44443 Diethylcarbamazine citrate tablets; correction
44443 Roxarsone tablets; correction
Food for human consumption:
44432 Frozen desserts; ice cream, custard, ice milk and sherbet; identity standards
GRAS or prior-sanctioned ingredients:
44434 Whey, whey products and hydrogen peroxide
Human drugs:
44442 Antibiotic drugs; erythromycin enteric-coated tablets
NOTICES
Food for human consumption:
44508 Tomato juice; identity standards deviation; temporary permits for market testing
Human drugs:
44506 Prescription topical anti-infective drug products for dermatologic use; drug efficacy study implementation; meeting
Medical devices:
44507 TCM10 TC carbon dioxide monitoring system; premarket approval
Meetings:
44504 Consumer information exchange

Food and Nutrition Service
RULES
Food stamp program:
44712 Household composition, income standards, initial month benefits, adjustments, deductions, and outreach; interim rule and request for comments
PROPOSED RULES
Child nutrition programs:
44452 School lunch, school breakfast, and child care food programs; meal requirements

Food Safety and Inspection Service
RULES
Meat and poultry inspection, mandatory; special provisions for designated States:
44417 Michigan; republication

Food Safety and Quality Service
PROPOSED RULES
44473 Lemon juice; grade standards

Forest Service
NOTICES
Environmental statements; availability, etc.:
44484 White River National Forest, Colo.; rifle winter sports site

General Services Administration
NOTICES
Authority delegations:
44504 Defense Department Secretary

Health and Human Services Department
See Child Support Enforcement Office; Food and Drug Administration; Human Development Services Office; Public Health Service.

Housing and Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Human Development Services Office
NOTICES
Social services:
44508 Federal allotments to States; 1982 FY

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
44488 Roller chain, other than bicycle, from Japan
Countervailing duty petitions and preliminary determinations:
44486 Fresh cut roses from Israel
Meetings:
44487 Numerically Controlled Machine Tool Technical Advisory Committee
44487 Telecommunications Equipment Technical Advisory Committee

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
44450 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; track use by various companies
PROPOSED RULES
Tariffs and schedules:
44482 Motor carriers; elimination of certificates as measure of "holding out;" oral argument
NOTICES
Motor carriers:
44518 Compensated intercorporate hauling operations; intent to engage in
44519, 44520 Permanent authority applications (2 documents)
44523 Permanent authority applications; restriction removals
Rail carriers:
44529 Norfolk & Western Railway Co.; export coal traffic exemption
44528 Uniform system of accounts; railroad cost accounting system compliance; preliminary certification

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance (Editorial note: See entries under Employment and Training Administration)

Land Management Bureau
RULES
Public land orders:
44450 Arizona; correction
44677 Sale of public lands; procedures; interim
NOTICES
Committees; establishment, renewals, terminations, etc.:
44514-44517 Outer Continental Shelf National Advisory Board working group committees; vacancies (5 documents)
Environmental statements; availability, etc.:
44517 Outer Continental Shelf; Gulf of Mexico; oil and gas lease sales
Meetings:
44514 Dickinson District Advisory Council
44517 Powder River Regional Coal Team; agenda amendment

Legal Services Corporation
NOTICES
44549 Meetings; Sunshine Act

National Bureau of Standards
NOTICES
Information processing standards, Federal:
44491 Optical character recognition (OCR); character positioning

National Credit Union Administration
RULES
Federal credit unions:
44421 Independent credit union service centers, examination; interpretive ruling and policy statement
44422 Share, share draft and share certificate accounts; tax exempt savings certificate issued by qualified institutions

National Oceanic and Atmospheric Administration
NOTICES
44492 Fishery Market News Reports; annual subscription rates increased

National Transportation Safety Board
NOTICES
44550 Meetings; Sunshine Act

Nuclear Regulatory Commission
RULES
Byproduct, source, and special nuclear material; domestic licensing:
44418 Regional licensing program
NOTICES
Applications, etc.:
44538 Carolina Power & Light Co.
44539 Florida Power & Light Co.
44539 Gulf States Utilities Co. et al.
44540 John C. Haynes Co.
44542 Power Authority of State of New York
44538 Transnuclear
44542 Wisconsin Electric Power Co.
44550 Meetings; Sunshine Act
44542 Regulatory guides; issuance and availability
Reports; availability, etc.:
44541 Mark II containment program evaluation and acceptance criteria

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
44537 Hardy Coal Co.
44536 Tharco Affiliated Companies Profit Sharing Plan Trust

Personnel Management Office
RULES
44415 Agency administrative grievance system; exclusions from coverage
44415 Regulatory flexibility review determination

Postal Rate Commission
NOTICES
Post office closing; petitions for appeal:
44543 Virginia Beach, Va.

Public Health Service
NOTICES
44509 Privacy Act; systems of records

Rural Electrification Administration
PROPOSED RULES
Electric borrowers:
44472 Low-loss buried distribution wire (Bulletin 345–42) and plastic-insulated line wire (Bulletin 345–17)
NOTICES
Loan guarantees, proposed:
44485 East River Electric Power Cooperative, Inc.
44485 United Power Association

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
44544 American Stock Exchange, Inc.
44545 Depository Trust Co.
44546 Options Clearing Corp.

Small Business Administration
NOTICES
Applications, etc.:
44547 Alyeska Investment Co.
44547 California Capital Investors, Ltd.
44548 Central Systems Equity Corp.
44548 Pacific Capital Fund, Inc.
44548 Small businesses; identification of burdensome regulations; inquiry

Soil Conservation Service
NOTICES
Watershed projects; deauthorization of funds:
44485 Bajura Watershed, P. R.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
44475 Maryland; request for comments and hearing

Textile Agreements Implementation Committee
NOTICES
Export visa requirements; certification; etc.:
44493 Pakistan; cotton textiles

Transportation Department
See Federal Aviation Administration.

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service—
44484 General Conference Committee of the National Poultry Improvement Plan, Washington, D.C. (open), 9–22 and 9–23–81

COMMERCE DEPARTMENT
International Trade Administration—
44487 Numerically Controlled Machine Tool Technical Advisory Committee, Washington, D.C. (partially open), 9–29–81
44487 Telecommunications Equipment Technical Advisory Committee, Washington, D.C. (partially open), 9–29–81

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
44504 Consumer Participation, Cincinnati, Ohio (open), 9–22–81
44506 Prescription topical anti-infective drug products for dermatologic use, Washington, D.C. (open), 9–24–81

DEPARTMENT OF THE INTERIOR
Land Management Bureau—
44514 Dickinson District Advisory Council, Dickinson, N. Dak. (open), 10–15 and 10–16–81

AMENDED MEETINGS

DEPARTMENT OF THE INTERIOR
Land Management Bureau—
44517 Powder River Regional Coal Team, Billings, Mont. (open), 10–2–81

HEARINGS

INTERIOR DEPARTMENT
Office of Surface Mining Reclamation and Enforcement—
44475 Maryland Permanent Regulatory Program, Modified portions, Frostburg, Md., 9–24–81

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. I..... 44415
771..... 44415

7 CFR
271..... 44712
272..... 44712
273..... 44712
274..... 44712
277..... 44712
910..... 44416

Proposed Rules:
101..... 44680
102..... 44680
103..... 44680
104..... 44680
106..... 44680
107..... 44680
108..... 44680
111..... 44680
210..... 44452
220..... 44452
226..... 44452
1701..... 44472
2852..... 44473

9 CFR
331..... 44417

10 CFR
30..... 44418
40..... 44418
70..... 44418
800..... 44686

Proposed Rules:
205..... 44696
590..... 44696

12 CFR
217..... 44420
701 (2 documents)..... 44421, 44422

14 CFR
91..... 44424

20 CFR
675..... 44730
676..... 44730
677..... 44730
680..... 44730

21 CFR
135..... 44432
184..... 44434
452..... 44442
520 (3 documents)..... 44443

24 CFR
201..... 44444
203..... 44444
205..... 44444
207..... 44444
213..... 44444
220..... 44444
221..... 44444
232..... 44444
234..... 44444
235..... 44444
236..... 44444
241..... 44444
242..... 44444
244..... 44444

30 CFR

Proposed Rules:
920..... 44475

40 CFR
52 (2 documents)..... 44447, 44448

Proposed Rules:
52..... 44476
80..... 44477

43 CFR
2710..... 44677

Public Land Orders:
5868 (Corrected by PLO 5983)..... 44450
5983..... 44450

47 CFR

Proposed Rules:
73 (3 documents)..... 44478–44481

49 CFR
1033..... 44450

Proposed Rules:
1310..... 44482

50 CFR
23..... 44660

Rules and Regulations

Federal Register
Vol. 46, No. 172
Friday, September 4, 1981

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Chapter I

Review of Regulations Under Regulatory Flexibility Act

AGENCY: Office of Personnel Management.

ACTION: Determination Under the Regulatory Flexibility Act.

SUMMARY: The Office of Personnel Management has completed a review of all existing regulations to determine their effect on small entities. This review is required by the Regulatory Flexibility Act (5 U.S.C. 610). The Director certifies that none of the regulations reviewed affect small entities.

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Beverly McCain Jones, Issuance System Office, 202–254–7086.

SUPPLEMENTARY INFORMATION: One of the requirements of the Regulatory Flexibility Act is that each agency publish in the **Federal Register** a plan for the periodic review of rules which will have a significant economic impact on small entities. This review is in addition to the semiannual agenda review. Although the Act allows us to complete the review over a period of ten years, OPM staff reviewed all existing regulations codified in the 1981 version of 5 CFR, and all regulations issued from January 1, 1981, through February 28, 1981. After March 1, 1981, each regulation contained a statement on the applicability of the Regulatory Flexibility Act.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

[FR Doc. 81-25873 Filed 9-3-81; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 771

Agency Administrative Grievance System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending its regulations on agency administrative grievance systems. These regulations provide criteria for the establishment and publication of an administrative grievance system by each agency and define the employee and action coverage to comply with those provisions of the Civil Service Reform Act of 1978 which affect employee administrative grievance rights. These amendments further define the employee and action coverage of the system.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Gary D. Wahlert, (202) 632–7778.

SUPPLEMENTARY INFORMATION: Proposed amendments to Part 771, Agency Administrative Grievance System, were published in the **Federal Register** on February 24, 1981 (46 FR 13729). Each of the four amendments affects § 771.206(c) which sets forth certain exclusions from coverage under the agency administrative grievance system.

The first amendment affects paragraphs (c)(1)(v) of § 771.206 which is concerned with employees of the Senior Executive Service (SES). No commenters recommended changes in the amendment as proposed. Accordingly, "an officer or employee" is changed to "a career appointee" to precisely reflect the type of employee affected by this exclusion. In addition, "or another pay system" is inserted after "General Schedule" to reflect the fact that some career appointees to the SES may have previously occupied positions not in the General Schedule.

The second amendment redesignates paragraphs (c)(1)(vi) through (xii) of § 771.206 as paragraphs (c)(1)(vii) through (xiii) in order to add a new paragraph (c)(1)(vi) also concerning employees of the SES. No commenters recommended changes in the amendment as proposed. Accordingly, the amendment excluding grievances over a reassignment of an SES appointee following the receipt of an unsatisfactory rating under section 4314 of title 5, United States Code, is adopted. The exclusion of grievances concerning reassignments under these circumstances in consistent with the mandatory nature of the statute requiring action (reassign, transfer or remove). It is also noted that the current paragraph (c)(1)(xiii) excludes grievances concerning performance evaluations under Subchapter II of Chapter 43 of title 5, United States Code, entitled "Performance Appraisal in the Senior Executive Service."

With paragraph (c)(1)xiii) redesignated as paragraph (c)(1)(xv), a new paragraph (c)(1)(xiv) concerning employees of the SES is added to § 771.206. No commenters recommended changes in this third amendment as proposed. Accordingly, the amendment excluding grievances concerning terminations of SES career appointees during probation for unacceptable performance under Subpart D of Part 359 of the Code of Federal Regulations is adopted. This exclusion is consistent with that currently set forth in paragraph (c)(1)(xii) concerning the termination of other probationary employees for unsatisfactory performance under Subpart H of Part 315 of the Code of Federal Regulations.

The fourth amendment adds a new paragraph (c)(1)(xvi) which as proposed would have provided a new exclusion as follows: "An action taken in accordance with the terms of an agreement voluntarily entered into by an employee which: (A) Assigns the employee from one geographical location to another within the continental United States or (B) returns an employee from an overseas assignment." However, several commenters have suggested changes in the content of the amendment—some of which we have adopted as discussed below.

One commenter suggested that the word "formal" be inserted before agreement. We agree that this suggested change would serve to emphasize the importance of spelling out in an agreement the terms of employment

with regard to mobility so that they are clearly understood by the parties to the agreement. Accordingly, this suggestion is adopted.

Another commenter recommended that subsection A concerning assignments from one geographical location to another within the continental United States not be included in the final amendment. The commenter noted that voluntary agreements to accept reassignments are not necessary for a manager to reassign an employee and that reassignment is a matter that is normally grievable. We, of course, agree that voluntary agreements are not necessary in order for a manager to reassign an employee; however, this exclusion is addressed to those situations wherein an employee and the manager (agency) have entered into a formal agreement, the terms of which are clearly understood by the parties to the agreement at the outset. In this instance, the employee may choose not to enter into such an agreement. If the employee does choose to enter into an agreement, the agency should not then have to entertain grievances concerning the mere effectuation of that agreement. In other situations where there is no voluntary agreement, reassignment, of course, would normally be grievable by a dissatisfied employee. Accordingly, the commenter's recommendation to delete subsection A is not adopted.

One commenter noted that voluntary agreements may be concerned with assignments from one geographical location to another other than just within the continental United States. We agree. Accordingly, we have deleted "within the continental United States" from the amendment.

Another commenter recommended that "consistent pursuant to 5 U.S.C. 3395" be inserted after "An action taken * * *". Since this exclusion applies to all employees covered by the agency administrative grievance system and not just employees of the SES, this recommendation is not adopted.

This commenter also recommended that "provided that such action will not be taken as a punitive or disciplinary measure" be added to the final line of the amendment. An employee could choose not to enter into an agreement that permitted actions to be taken as punitive or disciplinary measures. Accordingly, we see no need for this change and do not adopt the recommendation.

One commenter opposed the entire fourth amendment stating that it would make "* * * in effect, the non-voluntary return of employees in foreign areas with return rights a nongrievable matter." We agree. However, as noted previously, an employee may choose not to enter into a formal agreement, the terms of which are clearly understood by the parties to the agreement at the outset. Again, we do not believe that an agency should have to entertain grievances concerning the mere effectuation of that type of agreement. An employee dissatisfied with the concept of the exclusion of grievances concerning actions taken in accordance with the terms of an agreement which return an employee from an overseas assignment should not enter into such an agreement. Accordingly, the modified amendment is published in the form discussed above.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Director, Office of Personnel Management, certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Beverly McCain Jones,

Issuance Systems Manager.

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

Accordingly, the Office of Personnel Management is amending Part 771 of Title 5, Code of Federal Regulations, as follows:

§ 771.206 Exclusions. [Amended]

1. In § 771.206, revise paragraph (c)(1)(v) to read as follows:

* * * * *

(c) * * *

(1) * * *

(v) A return of a Senior Executive Service career appointee to the General Schedule or another pay system during the one year period of probation or for less than fully successful executive performance under section 3592 of title 5, United States Code;

* * * * *

2. In § 771.206, paragraph (c)(1)(xiii) is redesignated as paragraph (c)(1)(xv) and paragraphs (c)(1) (vi) through (xii) are redesignated paragraphs (c)(1) (vii) through (xiii). A new paragraph (c)(1)(vi) is added to read as follows:

* * * * *

(c) * * *

(1) * * *

(vi) A reassignment of a Senior Executive Service appointee following the appointee's receipt of an unsatisfactory rating under section 4314 of title 5, United States Code;

* * * * *

3. In § 771.206 add paragraph (c)(1)(xiv) to read as follows:

* * * * *

(c) * * *

(1) * * *

(xiv) The termination under Subpart D of Part 359 of this title of an SES career appointee during probation for unsatisfactory performance.

* * * * *

4. In § 771.206 add paragraph (c)(1)(xvi) to read as follows:

* * * * *

(c) * * *

(1) * * *

(xvi) An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee which: (A) assigns the employee from one geographical location to another or (B) returns an employee from an overseas assignment.

(5 U.S.C. 1302, 3301, 3302, 7301; E.O. 9830, 3 CFR 1943–1948 Comp., pp. 606–624; E.O. 11222, 3 CFR 1964–1969 Comp., p. 306)

[FR Doc. 81–25887 Filed 9–3–81; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 321]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 6–12, 1981. Such action is needed to provide for orderly marketing of fresh lemons for

this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 6, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on September 1, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.621 is added as follows:

§ 910.621 Lemon Regulation 321.

The quantity of lemons grown in California and Arizona which may be handled during the period September 6, 1981, through September 12, 1981, is established at 226,904 cartons.

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

Dated: September 2, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–26259 Filed 9–3–81; 2:00 p.m.]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Part 331

[Docket No. 81–033F]

Designation of State of Michigan Under Federal Meat Inspection Act

Note.—This document originally appeared in the **Federal Register** for September 2, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food Safety and Inspection Service, USDA.

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretay of Agriculture hereby designates the State of Michigan under section 301(c)(3) of the Federal Meat Inspection Act. The Governor of the State of Michigan has advised this Department that the State of Michigan will no longer be in a position to continue administering a State meat inspection program after October 2, 1981. Accordingly, effective October 3, 1981, all establishments operating under the Michigan meat inspection program shall be subject to the provisions of titles I and IV of the Federal Meat Inspection Act. By this designation, the U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Michigan, of administering the meat inspection program with respect to establishments operating, and intrastate operations and transactions, wholly within that State.

The provisions concerning designated States are found in Part 331, Subchapter A, Chapter III, Title 9 of the Code of Federal Regulations.

EFFECTIVE DATES: This notice of designation is effective as of September 2, 1981.

The effective date of this amendment is October 3, 1981.

As a result of this amendment, the provisions of titles I and IV of the Federal Meat Inspection Act (9 CFR Part 331) will apply to such establishments and intrastate operations wholly within the State of Michigan on and after October 3, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Joe Blair, Director, Federal-State Relations Branch, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6313.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Michigan, of administering the meat inspection program with respect to establishments operating, and intrastate operations and transactions, wholly within that State. This action is being taken because the State of Michigan indicated it was no longer in a position to enforce requirements with respect to said establishments at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

Since the Governor of the State of Michigan has advised the United States Department of Agriculture that the State-operated meat inspection program will be discontinued due to the lack of funding, the Federal Government is mandated by law to assume the responsibilities for the meat inspection program with respect to establishments operating, and intrastate operations and transactions wholly within the State.

Therefore, no alternative actions under the law are available to the Department.

Effect on Small Entities

Dr. Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. As stated above, the U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Michigan, of administering the meat inspection program with respect to establishments operating, and operations and transactions, wholly within that State. This action will affect approximately 349 heretofore State inspected establishments in Michigan, most, if not all, of which may be presumed to be small businesses. However, this is not a substantial number of establishments given the approximately 10,000 small meat establishments nationwide, which are either federally or State inspected. Additionally, the application of certain Federal facility and other requirements to such establishments will be flexible insofar as each facility will be reviewed with regard to the circumstances peculiar to that establishment. Furthermore, it is not anticipated that significant costs will be incurred by these Michigan establishments as a result of this action. Those specific establishments for which some upgrading of facilities is indicated will be provided up to 36 months in which to make such changes.

Background

The Governor of the State of Michigan has advised this Department that the State of Michigan will no longer be in a position to continue administering the State meat inspection program after October 2, 1981, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishment with the state at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat and meat food products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Michigan had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act. However, such titles contemplate a continuous, ongoing program, and in view of the termination date now applicable to the Michigan program, it is hereby determined that Michigan is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act.

On and after October 3, 1981, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State, and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce", within the meaning of the Federal Meat Inspection Act, and any establishment in the State which conducts any slaughtering or preparation of carcasses or parts or products thereof, as described above, must have federal meat inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Therefore, the operator, of each such establishment who desires to continue any such operations after October 2, 1981, should immediately communicate with the Regional Director for Meat and Poultry Inspection as listed below, for information concerning the requirements and exemptions under the Act and application for inspection and survey of the establishment: Dr. K. O. McDougall, Director, North Central Region, Meat and Poultry Inspection Operations, U.S. Department of Agriculture, Room 419, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, Iowa 50309, (515) 862–4042.

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Accordingly, Part 331 is amended to read as follows:

1. The authority citation for Part 331 reads as follows:

Authority: Secs. 21 and 301, 81 Stat. 584, 588, 592, 593, 595; 21 U.S.C. 621, 661.

§ 331.2 [Amended]

2. The table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

In the "State" column, "Michigan" is added immediately below "Massachusetts".

In the "Effective date of application of Federal provisions" column, "October 3, 1981," is added on the line with "Michigan".

Donald L. Houston, Administrator, Food Safety and Inspection Service, has determined that it is necessary to designate the State of Michigan immediately, in accordance with section 301(c) of the Federal Meat Inspection Act, in order to carry out the Secretary's responsibilities under the Act.

Therefore, it does not appear that additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to public interest.

Done at Washington, DC, on: August 17, 1981.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 81-25377 Filed 9-1-81; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Regional Licensing Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations concerning the domestic licensing of byproduct material to provide information concerning the NRC's regional licensing program. The amendment specifies that applications or amendments for certain licenses must be sent to regional offices in regions where the regional licensing program is in effect. The amendment is necessary to inform current or prospective licensees of current NRC practice.

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, NMSS, Telephone: (301) 427–4002.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending its regulations on communications concerning the domestic licensing of byproduct material to reflect current NRC practices under

its regional licensing program. The revised communications provisions (§§ 30.6, 40.5, and 70.5) specify that all inquiries concerning NRC regulations in 10 CFR Parts 30–35, Part 40 and Part 70 and applications for certain types of licenses or license renewals or revisions in Regions I and III be sent to the regional office. This requirement would not apply to Agreement States, Federal facilities or the District of Columbia.

Background

The NRC conducted a two year pilot regional licensing program in Region III from March, 1978 to March, 1980. The program was designed to determine whether better service could be provided to licensees through field offices than would be given through Headquarters. The pilot program was also intended to determine the equipment and personnel needed for a formal regional program and to identify problems that could result from full regionalization.

Pilot Program Results

The pilot program indicated that better services to applicants and licensees can be provided by a regional licensing program. Under the pilot program, response time for licensing actions was reduced, the number of deficiency letters to applicants declined, and the quality of license reviews by the regional staff was consistent with that of the headquarters staff. In addition, the quality of license reviews and enforcement action as well as the training of licensing and inspection staffs benefited from the regional program.

As a result the NRC is continuing the regional licensing program in Region III and establishing a similar program in Region I.

The Regulation

The changes to §§ 30.6, 40.5, and 70.5 are nonsubstantive amendments. These amendments are intended to inform current and prospective licensees of current, NRC practices. The new §§ 30.6, 40.5, and 70.5 indicate the types of licenses covered under the regional licensing program and the proper addresses in Regions I and III for submitting covered licensing actions.

This is a nonsubstantive, administrative amendment. Since this is a minor procedural amendment the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and good cause exists for making the amendment effective September 4, 1981.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Parts 30, 40, and 70 are published as a document subject to codification.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 reads as follows:

Authority: Secs. 81, 82, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842 and 5846), unless otherwise noted.

Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273) § 30.34(c) issued under sec. 161b, 68 Stat. 948 (42 U.S.C. 2201(b)) and §§ 30.51 and 30.52 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 30.6 is revised to read as follows:

§ 30.6 Communications.

(a) Unless otherwise specified, or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in Parts 30–35 of this chapter, and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, NW., Washington, DC; or

(ii) 7915 Eastern Ave., Willste Bldg., Silver Spring, Maryland.

(b) The Commission is conducting a regional licensing program for selected parts of its material licensing program. Any communication, report, or application covered under the Commission's regional licensing program for Regions I and III must be submitted as specified in paragraph (b)(2) of this section.

(1) The regional licensing program includes—

(i) All licenses for the medical use of radioisotopes except teletherapy sources and nuclear powered pacemakers;

(ii) All academic licenses except irradiators;

(iii) All industrial licenses authorizing research and development;

(iv) Licenses for the industrial use of stationary and portable gauges; and

(v) Licenses of sources contained in gas chromatographs and x-ray fluorescence analyzers.

(2) The following regions are participating in the regional licensing program.

(i) *Region I.* With the exception of Federal facilities and the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Licensing Section, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region III, Radioisotopes Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for Part 40 reads as follows:

Authority: Secs. 62, 63, 64, 65, 161, 182, 183, 68 Stat. 932, 933, 948, 953, 954, as amended (42 U.S.C. 2092, 2093, 2094, 2095, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846), unless otherwise noted.

Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273) § 40.41(c) issued under sec. 161b., 68 Stat. 948 (42 U.S.C. 2201(b)) and §§ 40.23(e)(3), 40.61 and 40.62 issued under sec. 161o., 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

4. Section 40.5 is revised to read as follows:

§ 40.5 Communications.

(a) Unless otherwise specified, or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material, Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, NW, Washington, DC; or

(ii) 7915 Eastern Ave., Willste Bldg., Silver Spring, Maryland.

(b) The Commission is conducting a regional licensing program for selected parts of its material licensing program. Any communication, report, or application covered under the Commission's regional licensing program for Regions I and III must be submitted as specified in paragraph (b)(2) of this section.

(1) The regional licensing program includes—

(i) All licenses for the medical use of radioisotopes except teletherapy sources and nuclear powered pacemakers;

(ii) All academic licenses except irradiators;

(iii) All industrial licenses authorizing research and development;

(iv) Licenses for the industrial use of stationary and portable gauges; and

(v) Licenses of sources contained in gas chromatographs and x-ray fluorescence analyzers.

(2) The following regions are participating in the regional licensing program.

(i) *Region I.* With the exception of Federal facilities and the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Licensing Section, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region III, Radioisotopes Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

5. The authority citation for Part 70 reads as follows:

Authority: Secs. 51, 53, 161, 182, 68 Stat. 929, 930, as amended, 948, as amended, 953, as amended, 954 (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846) unless otherwise noted.

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)–(k), 70.24(a) and (b), 70.32(a)(3), (5), and (i), 70.36, 70.39(b), and (c), 70.41(a), 70.42(a) and (c), 70.56, are issued under Sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.20a(d), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)–(g), 70.56, 70.57(b) and (d), 70.58(a)–(g)(3) and (h)–(j) are issued under Sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.32(h), 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k) and (l), 70.59 are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. Section 70.5 is revised to read as follows:

§ 70.5 Communications.

(a) Unless otherwise specified, or covered under the regional licensing program as provided in paragraph (b) of this section, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, NW., Washington, DC; or

(ii) 7915 Eastern Ave., Willste Bldg., Silver Spring, Maryland.

(b) The Commission is conducting a regional licensing program for selected parts of its material licensing program. Any communication, report, or application covered under the Commission's regional licensing program for Regions I and III must be submitted as specified in paragraph (b)(2) of this section.

(1) The regional licensing program includes—

(i) All licenses for the medical use of radioisotopes except teletherapy sources and nuclear power pacemakers;

(ii) All academic licenses except irradiators;

(iii) All industrial licenses authorizing research and development;

(iv) Licenses for the industrial use of stationary and portable guages; and

(v) Licenses of sources contained in gas chromatographs and x-ray fluorescence analyzers.

(2) The following regions are participating in the regional licensing program.

(i) *Region I.* With the exception of Federal facilities and the District of Columbia, the regional licensing program involves the following Region I Non-Agreement States: Connecticut, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, and Vermont. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region I, Material Licensing Section, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) *Region III.* With the exception of Federal facilities, the regional licensing program involves the following states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. All inquiries and each application for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section may be sent to—U.S. Nuclear Regulatory Commission, Region III, Radioisotopes Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

Dated at Bethesda, Maryland this 28th day of August 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-25987 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Reg. Q; Docket No. R-0356]

Depositors Eligible To Maintain NOW Accounts; Suspension of Effective Date

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Suspension of effective date.

SUMMARY: On August 14, 1981, the Board of Governors issued an interpretation of Regulation Q—Interest on Deposits (12 CFR Part 217) to clarify the rules concerning the class of depositors eligible to maintain NOW accounts at member banks. The Board has suspended the effective date of the interpretation in light of litigation pending in the United States District Court for the District of Columbia (*American Bankers Association* v. *Federal Home Loan Bank Board, et al.*

(Civil Action No. 81–1933, U.S. District Court for the District of Columbia)).

DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Paul S. Pilecki, Senior Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96–221) ("Act") authorized depository institutions nationwide (except credit unions which are authorized to offer share draft accounts) effective December 31, 1980, to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties (12 U.S.C. 1832(a)(1)). Under the statute, NOW accounts are available only to individuals and to certain qualifying organizations (12 U.S.C. 1832(a)(2)).

On August 14, 1981, the Board issued an interpretation to clarify the rules concerning the class of depositors eligible to maintain NOW accounts (46 FR 42060). The Federal Home Loan Bank Board issued an interpretation on August 13, 1981, that provides for a broader class of eligibility for NOW accounts (46 FR 42250). On August 18, 1981, the American Bankers Association brought suit in the United States District Court for the District of Columbia challenging the interpretations of both agencies.

The Board believes that its interpretation is the correct interpretation of the Act in that it is consistent with its existing regulations and interpretations. However, as a matter of convenience to member banks, the Board has suspended the effective date of the interpretation in view of the pending litigation. It should be noted that the current regulations of the Board concerning eligibility for NOW accounts at member banks (12 CFR 217.1(e)(3)), as well as the regulations of the other agencies remain in effect notwithstanding the suspension of the effective date of the August 14 interpretation. Accordingly, the effective date of 12 CFR 217.157 is hereby suspended.

By order of the Board of Governors, August 31, 1981.

William W. Wiles,

Secretary of the Board.

[FR Doc. 81-25809 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Interpretive Ruling and Policy Statement; Examination of Independent Credit Union Service Centers

AGENCY: National Credit Union Administration.

ACTION: Statement of interpretation and policy.

SUMMARY: This document states that whenever any credit union, subject to examination by NCUA, engages a company or other organization to perform any accounting or EDP services, whether on or off its premises:

(1) Such performance or provision shall be subject to examination by the Administration to the same extent as if the services were being performed by the credit union itself on its own premises;

(2) Any resulting examination report, whether or not it was prepared by NCUA, may be distributed to any federally insured credit union receiving services from the organization examined; and

(3) Any examination report prepared by NCUA may be distributed to other Federal or state regulatory agencies where institutions under their purview receive services from the examined organization.

EFFECTIVE DATE: September 1, 1981.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert S. Monheit, Senior Attorney, Office of General Counsel, Dan Kinne, EDP Audit Specialist or Nick Veghts, Corporate Specialist, Office of Examination and Insurance at the above address. Telephone: (202) 357–1030 (Mr. Monheit), (202) 357–1065 (Messrs. Kinne and Veghts).

SUPPLEMENTARY INFORMATION: Independent credit union servicers are having an increasing impact on the credit union industry because of the wide range of products and services being offered. The products and services referred to include computer processing of credit union records, accounting services, and sale of application software to credit unions. It is imperative that, to maintain a comprehensive examination program in light of current technology and the dynamic nature of the credit union industry, NCUA expand its scope of examination to include these independent organizations.

IRPS 81–6

NCUA interprets the general supervisory powers of NCUA stated in sections 106 and 204 of the Federal Credit Union Act, (12 U.S.C. 1756 and 1784) to include a power of examination over those institutions providing accounting and recordkeeping services to federally insured credit unions. While the other Federal financial institution regulatory agencies have specific statutory authority to conduct these examinations (12 U.S.C. 1865), the legislative history of that provision reveals that it merely codified existing implicit authority. Analogous implicit authority exists for NCUA, like the other Federal financial institution regulatory agencies, to conduct examinations of independent EDP organizations and credit union service centers.

NCUA also interprets its authority under the Federal Credit Union Act to include distribution of an examination report on any examined EDP or service organization, regardless of the nature of the organization to the extent reasonably necessary to accomplish the purpose for which the report was created; without waiving its privilege to withhold the same report from others under Exemption of the Freedom of Information Act, 5 U.S.C. 552(b)(8). Therefore, so long as a report is distributed to inform a Federal or federally insured state credit union of the quality of EDP or accounting services used for accounting or recordkeeping provided by a particular organization, distribution is proper. Reports, even after distribution, remain the property of NCUA and further distribution by the credit union may not be made without the Agency's written approval.

Distribution of these EDP or credit union service center examination reports to other Federal and state regulatory agencies furthers the effective supervision of banks and other thrift institutions and is, therefore, proper. Federal and state regulatory agencies may distribute reports to individually serviced financial institutions for which they have regulatory responsibility, provided they do so in furtherance of their regulatory/supervisory responsibilities. Similarly, NCUA may distribute examination reports received from other agencies to applicable credit unions to the extent that these agencies permit distribution.

Approved by the NCUA Board on August 27, 1981.

Rosemary Brady,
Secretary of the NCUA Board.
August 27, 1981.

[FR Doc. 81-25950 Filed 9-3-81; 8:45 am]
BILLING CODE 7535-01-M

---

12 CFR Part 701

Share, Share Draft and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: On August 13, 1981, the Economic Recovery Tax Act of 1981 became law. Section 301 of the Tax Act provides that a qualified institution (defined to include Federal and state insured credit unions) can issue a tax-exempt savings certificate, the so-called "All Savers Certificate". This amendment to Part 701.35 of the NCUA rules and regulations facilitates the issuance of the All Savers Certificate by Federal credit unions.

DATES: Effective date: October 1, 1981. Expiration date: December 31, 1982 or as otherwise ordered by the NCUA Board.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Randall Miller, Acting Director, Office of Policy Analysis or Steven R. Bisker, Senior Attorney, Office of General Counsel, at the above address. Telephone numbers: (202) 357-1090 (Mr. Miller), (202) 357-1030 (Mr. Bisker).

SUPPLEMENTARY INFORMATION: On August 13, 1981, the President signed the Economic Recovery Tax Act of 1981. Section 301 of that Act provides for a depository institution tax-exempt savings certificate, the so-called "All Savers Certificate." Individuals holding such certificates may exclude up to $1000 in dividend or interest income during the tax years 1981 to 1983; those filing jointly may exclude up to $2000.

An All Savers Certificate is a certificate that:

(1) Is issued by a depository institution (including credit unions) after September 30, 1981 and before January 1, 1983;

(2) Has a maturity of one year;

(3) Has an effective yield (total yield inclusive of compounding) equal to 70% of the average investment yield for the most recent auction of 52 weeks U.S. Treasury bills prior to the week in which the certificate is issued; and

(4) Is made available in a denomination of $500.

Federal credit unions are authorized to offer All Savers Certificates subject to the following limitation. The amount of the certificates issued by a credit union may not exceed the total amount of "qualified net savings" in a credit union as of September 30, 1981, plus 10% of the excess over the total amount as of the close of each succeeding calendar quarter. "Qualified net savings" as applied to Federal credit unions is the total savings excluding: (1) accounts of $100,000 or more and (2) share draft accounts.

Specific Regulatory Issues Pertaining to All Savers Certificates

Information on the 52 Week Treasury Bill Rate

Fifty-two week Treasury bills are usually auctioned the fourth Thursday of every month. The new rate ceiling governing All Savers Certificates would be effective the following Monday. It is anticipated that the Department of the Treasury will announce the new ceiling rates in the same manner that they currently announce money market certificates and 2½ year ceiling rates. In addition, such rates will be published in the *Wall Street Journal* and will be available on NCUA's toll free "Hot Line" (800-424-5531 and 202-357-0104 in Washington, D.C.).

Denomination

All Savers Certificates, if offered, must be made available in a denomination of $500. However, provided that a $500 denomination is available, All Savers Certificates may be offered in any other denomination.

Compounding.

Compounding is permitted on All Savers Certificates. However, since the ceiling rate governing the certificates is the total yield inclusive of compounding, there may be no advantage to compounding. If a credit union were to compound, it would have to advertise an annual rate for All Savers Certificates lower than the ceiling rate.

Additions

Under current NCUA regulations governing share certificates, Federal credit unions are permitted to accept additions without extending the maturing of the certificate. However, with respect to an All Savers Certificate, this may cause a loss of the dividend tax exclusion. This question is currently being reviewed by IRS. FCU's will be notified by NCUA of the final IRS position.

Early Withdrawal Penalties

If a credit union member redeems any part of the principal of an All Savers Certificate, then the member loses the tax exclusion. In addition, the premature withdrawal of principal will subject the member to the usual minimum early withdrawal penalty governing share certificates; the lesser of all dividends for 90 days on the amount withdrawn or all dividends on the amount withdrawn since the date of issuance or renewal.

The provision of the Act governing the All Savers Certificate also requires that if a member uses the All Savers Certificate as collateral for a loan, then the member will be considered as having redeemed the certificate prior to maturity and will lose the tax exclusion on the dividends earned. However, in this case, the NCUA minimum early withdrawal penalty regulation would not apply. (In this connection, credit unions that routinely include a general pledge of shares clause in their loan notes should include in their All Savers Certificate contracts a specific waiver of the pledge.)

NCUA regulations permit the withdrawal of dividends credited to a share certificate account without penalty. These provisions would continue to apply in the case of All Savers Certificates. However, subsequent IRS regulations governing All Savers Certificates may require the loss of the tax exclusion if dividends are withdrawn. This is another issue which will be resolved by IRS. NCUA will notify all FCU's when that opinion is rendered.

Disclosure and Advertising Requirements

Current NCUA regulations, §§ 701.35(k) and 701.35(l), require that certain information be included in advertisements and in disclosure statements given to the member when the account is issued. In offering the All Savers Certificate, credit unions will be advertising the tax exclusion on the dividends earned. In order to obtain the tax exclusion, the terms and conditions governing All Savers Certificates must be met. Members should be properly apprised of the significant terms and conditions on All Savers Certificates which include (but are not limited to): (1) the maturity; (2) the yield; (3) the minimum denomination requirement; (4) the tax penalty for premature withdrawal of principal; (5) the tax penalty for using the certificate as collateral on a loan; (6) the NCUA early withdrawal penalty; (7) conditions governing automatic renewals of

maturing certificates; and (8) the ability to make additions at any time and whether this affects the ability to claim the tax exclusion. These disclosures would be in addition to those that are otherwise required by the regulations.

Earnings and Dividends

The Tax Act specifies a rate on All Savers Certificates "*equal* to 70 percent" of the 52 week Treasury Bill rate. NCUA has received inquiries as to whether this presents a conflict with the fact that FCUs may not guarantee dividends. It is the present belief of NCUA that if a Federal credit union in good faith is unable to pay the specified dividend because of insufficient earnings, a lesser dividend may be declared without adverse tax consequences to the member.

Reporting Requirements

NCUA regulations impose no reporting requirements on credit unions issuing All Savers Certificates. However, the IRS will likely be requiring separate reporting on Form 1099 of dividends earned during a taxable year on All Savers Certificates.

Foreign Branches

The Act stipulates that deposits in foreign branches or facilities must be excluded from the computation of "qualified net savings" used to determine the total amount of All Savers Certificates a depository institution may issue. It is NCUA's position that overseas branches of Federal credit unions do not fall under the definition of "foreign branch or facility" and therefore, their deposits may be included when determining "qualified net savings."

Renewing Certificates

During the period from October 1, 1981 to December 31, 1982, All Savers Certificates can be automatically renewed at the prevailing authorized ceiling rate once they have reached maturity. Credit union members can also hold any number of All Savers Certificates. However, regardless of the number of All Savers Certificates a member may obtain, the total amount of dividends that may be excluded from gross income cannot exceed $1000 for an individual ($2000 for joint filing) during the three taxable years for which All Savers Certificates may be outstanding. For example, if an individual excludes $200 of dividend income on an All Savers Certificate obtained on October 1, 1981, then he or she can exclude no more than $800 of dividend income during 1982.

Waiver of Early Withdrawal/Penalties on Existing Share Certificates

This amendment to § 701.35 authorizes a Federal credit union, at its discretion, to waive the mandatory penalty provision of paragraph (e)(2) so as to allow its members to withdraw all or a part of their funds from existing share certificates prior to maturity and to redeposit the funds in the All Savers Certificates.

In the event that a credit union member transfers only a part of an existing certificate (e.g., money market certificate) to an All Savers Certificate, the balance remaining in the existing certificate must satisfy any minimum denomination requirement. If the remaining balance falls below the minimum balance, then the funds must be transferred to a regular share account, share draft account, or some other share certificate for which the minimum denomination requirement, if any, can be satisfied. Credit unions would be permitted to conduct such transfers without imposing the early withdrawal penalty. On existing share certificates other than money market certificates, credit unions may at their discretion waive any established minimum denomination requirements, since no minimum denomination is required by regulation.

Regulatory Procedures

The NCUA Board has determined that notice and public comment on this rule are impracticable and not in the public interest. 5 U.S.C. 553(b)(B). For the most part, the authority granted by this amendment is already contained in other subsections of 701.35, therefore notice and public comment is unnecessary. This amendment is intended to clarify FCU authority to issue the All Savers Share Certificate. In addition, the amendment is necessary to permit FCU's to pay a dividend at a rate that may be in excess of that currently authorized by § 701.35(h)(2). Further, the amendment is necessary to relieve the mandatory penalty for early withdrawal on those share certificates which a member may wish to rollover into the All Savers Certificate. Because the All Savers Certificate will greatly ease the potential threat to the safety and soundness of individual credit unions imposed by high money market rates, an expeditious amendment is needed to allow FCU's to begin offering these certificates on October 1, 1981. This hastened process will benefit both FCU's and their members. For these reasons and because the rule relieves a restriction, the Board has determined not to provide a 30 day delayed effective date. 5 U.S.C. 553(d).

For the reasons noted above and because the change will increase the management flexibility and competitive positions of small credit unions, a regulatory flexibility analysis is not required. 5 U.S.C. 603(a), 604(a). However, if the Regulatory Flexibility Act did apply the Board would be willing to certify that this rule will not have a significant economic impact on a substantial number of small Federal credit unions.

The NCUA Board finds that full and separate consideration of all the requirements of the Regulatory Simplification Act is impracticable inasmuch as the rule will relieve burdens and delay may cause unnecessary harm.

Accordingly, NCUA amends § 701.35 of its rules and regulations as set forth below.

(12 U.S.C. 1757(6), 1766(a))

Rosemary Brady,

Secretary, National Credit Union Administration Board.

August 31, 1981.

1. Section 701.35(h) is amended by adding a new subparagraph (5) as follows:

§ 701.35 Share, share draft and share certificate accounts.

* * * * *

(h) * * *

(5) Notwithstanding paragraph (h)(2) of this section, effective October 1, 1981 and expiring after December 31, 1982, Federal credit unions may pay, on share certificates made available in a denomination of $500 and having a maturity of one year, a dividend (inclusive of compounding) equal to 70 percent of the average investment yield on 52 week United States Treasury bills as most recently announced before the week in which the certificate is issued. Federal credit unions may also offer such certificates in any other denomination of the credit union's choice, as long as a $500 denomination certificate is made available. For the purpose of permitting members to deposit their funds in the share certificates authorized by this subsection from deposits currently held in other share certificates, Federal credit unions may waive the mandatory penalty provision of paragraph (e)(2) of this section. If a member transfers only a portion of the funds from an existing money market certificate (issued pursuant to paragraph (h)(4) of this section), the remaining balance must equal or exceed the $10,000 minimum, or

it must be withdrawn or transferred to another certificate or account as agreed to between the credit union and the member.

[FR Doc. 81-25919 Filed 9-3-81; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 91

Federal Aviation Administration

[Docket No. 22050; SFAR No. 44-1]

Special Federal Aviation Regulation No. 44-1; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment to Special Federal Aviation Regulation (SFAR) No. 44 establishes certain procedures for the operation of the National Air Traffic Control System, including the establishment of air traffic reduction schedules for 22 airports, until at least April 24, 1982. Since the August 3, 1981, action by air traffic controllers has reduced the level of air traffic control services that the FAA is capable of providing, the Administrator has determined that a situation still exists which requires the continuation of the current special air traffic control provisions established under SFAR No. 44, as modified by this amendment, to provide for the efficient and safe movement of air traffic.

DATES: Effective September 9, 1981. Comments are invited on this Interim Operations Plan so long as it remains in force or until June 1, 1982, whichever date is later.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204) Docket No. 22050, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service (Telephone (202) 426-3731), or
John R. Ryan, Operations Division, Air Traffic Service (Telephone (202) 426-8310), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this amendment is in the form of an emergency final rule which concerns immediate flight safety throughout the United States, and, thus, is not preceded by notice and public procedure, comments are invited on the Interim Operations Plan so long as it remains in force or until June 1, 1982, whichever date is later. The need for immediate regulatory response and background material is stated at 46 FR 39606, *et seq.* Comments on the rule should be submitted to the address indicated above. Comments are specifically invited on any aspects of the operation of the Air Traffic Control system under this amendment or SFAR No. 44 that suggest a need to modify the regulation, or which should be considered should the occasion arise in the future to operate the Air Traffic Control system under emergency conditions. Comments received will be reviewed on a continuing basis and this amendment and the Interim Operations Plan may be changed in the light of comments received. Commenters wishing the FAA to acknowledge receipt of their comments in response to this rule must submit with those comments a self-addressed, stamped post card on which the following statement is made: "Comments to Docket No. 22050." The post card will be date/time stamped and returned to the commenter.

Air Traffic Control System Interim Operations

The actions of certain members of the Professional Air Traffic Controllers Organization (PATCO) has significantly reduced the number of air traffic controllers who are available to operate the Air Traffic Control (ATC) system. This has resulted in the need to reduce the level of services that the FAA provides at various ATC facilities.

This has been accomplished by the operation of the ATC system under normal air traffic control procedures with the aid of "flow control" measures that result in a reduction of user demands on the system (SFAR No. 44 (46 FR 39606, Aug. 3, 1981)).

This procedure utilizes the airlines' published schedules in the Official Airline Guide (OAG) for allocating the reduced flight operations at airports irrespective of IFR or VFR operations. Use of the OAG eliminates the need for duplicate information to be submitted to the FAA and provides the industry and the public with a usable schedule. Since use of OAG has worked well, it forms the basis of the Interim Operations Plan. The procedures have permitted the safe and efficient operation of the ATC system based upon the air traffic work force available at each ATC facility within the system. The reduction in user demand necessary because of the reduced work force has been accomplished while allowing the air carriers the maximum possible control over their operations. In addition, it has permitted adjustments to the system to provide for many of the seasonal and other changes in air carrier schedules that routinely occur. The procedures also have permitted normal flight planning and fuel conservation techniques by users. They further provide some flexibility to accommodate new or additional services that may occur at an airport as air carrier operations and the ATC work force at that airport change. In addition, the Plan provides ATC service to meet as many other aviation needs as can be accommodated with the available work force.

Accordingly, the Administrator has determined that the National Air Traffic Control system should continue to operate under the Interim Operations Plan, as modified by this amendment, until at least April 24, 1982. The schedule reductions currently in effect at the 22 airports specified in the Notices to Airmen (NOTAMs) issued under SFAR No. 44 and § 91.100 of the Federal Aviation Regulations will continue until further notice. Schedule reductions may also be imposed at other airports if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. Changes will be coordinated in advance and the Plan will be updated as conditions at each airport change.

Many members of the public and in industry have urged the FAA to develop a plan which will be in effect for a finite period of time to allow air carriers to plan schedules, make decisions involving staffing and equipment and which would allow the public to make plans. It is for this reason that this plan will remain in effect until at least April 24, 1982. This is the date on which summer schedules are usually issued.

The FAA recognizes that an OAG which contains the complete flight schedules of the air carriers rather than the actual flights scheduled under the reductions required by the Plan is of limited value to the public in scheduling their travel. It places the burden on air carriers to inform the public of their actual flight schedules by telephone and means other than the OAG. To permit actual flight schedules to be published in future OAGs, this amendment requires air carriers to develop their

normal (full) schedule at each airport they serve for the period to be covered by the OAG and then apply the specified reduction percentage for the hourly operations periods at the designated airports. Accordingly, the air carriers have been requested to develop schedules for publication in the OAG which reflect the actual flight operations of each air carrier. Thus, the schedules submitted by the air carrier to the OAG and subsequently published in the OAG for the 22 designated airports will be the reduced schedules developed in accordance with the appendix to this amendment.

To prevent possible abuse of the system as future schedules are developed by the air carriers for publication in the OAG, the number of daily arrival operations an air carrier may use as the basis for making the reductions specified for the designated airports shall not exceed the average daily arrival operations, on an hourly basis, at each airport, by the air carrier for the first six months of calendar year 1981 as shown in the OAG. The number of daily arrival operations scheduled by an air carrier at airports that are not "designated" airports shall also meet this average daily arrival criteria. New or additional services into any airport must be approved by the Director of Air Traffic Service. The schedule developed by an air carrier for a designated airport using the average daily arrival criteria may be revised and flights added or deleted from the schedule by the Director of Air Traffic Service at the request of the air carrier, if the Director determines that the changes to the schedule can be accommodated by the work force available at the ATC facilities involved. Approval of any additional flights into a designated airport will be made equitably among the air carriers requesting new or additional service into that airport. Service approved and operating today by an air carrier, which is in addition to the average daily arrival criteria, will be considered in approving additional operations. The schedule submitted to OAG should include revisions and changes requested by the air carrier and approved by the Director of Air Traffic Service.

Changes to schedules that are listed in an OAG may be requested during the period the OAG is effective. However, the requested changes should not exceed 5% of an air carrier's operations under that OAG in order that the requests may be timely considered. Requests for changes should be submitted to the FAA Air Traffic Control Command Center (ATCCC), Jacksonville, Florida, by 0800 EDT of the Wednesday prior to the week in which the change is to take effect. Approved changes shall be effective at 0600 EDT each Sunday.

A new air carrier that had an application for operating authority on file with the Civil Aeronautics Board prior to August 3, 1981, will receive approval for some operations. Other new entrants may be authorized to operate at the designated airports only if the then current capacity permits. Comments are specifically invited on the issue of how to provide service for new entrants.

Unscheduled flights by air carriers such as charters, training, extra sections, etc. into a designated airport will be approved on an individual basis by the Director of Air Traffic Service if ATC system capacity permits. General aviation and military operations will continue to be accommodated through the flow control procedures that result in a reduction in user demands on the system when needed, and will be processed basically on a first come first serve basis. International flights will continue to be processed in accordance with the current procedures established for international flight.

Requests for IFR reservations and cancellations of scheduled flights should be forwarded to the ATCCC, Jacksonville, Florida, in a timely manner to assure proper consideration requests and maintain the integrity of the ATC data base.

This amendment does not change the present authority of the Director of Air Traffic Service to restrict, prohibit or permit VFR and/or IFR operations at any airport, TCA or other terminal and enroute airspace; to give priority at any airport to flights that are military necessities, medical emergency flights, Presidential flights, and flights transporting critical FAA employees; and to implement flow control management procedures, including reduction of flight operations, at any airport or within enroute airspace. Under the current conditions in the ATC system, the FAA's Air Traffic Control Command Center has the ability to maintain an efficient flow of air traffic within a framework of predetermined levels of system capacity. Therefore, it does not appear that it will be necessary to activate the more restrictive National Air Traffic Control Contingency Plan (Phase III). However, the Director of Air Traffic Service continues to be authorized to activate that Contingency Plan if conditions develop that require its use in order to provide for the safe and efficient movement of air traffic.

The basic rules and orders necessary for operation under the Interim Operations Plan will continue to be disseminated, in accordance with § 91.100 of the Federal Aviation Regulations, by Notices to Airmen (NOTAM).

The continued operation of the National Air Traffic Control System in a safe and efficient manner requires the immediate adoption of this regulation in the public interest. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the **Federal Register.**

Adoption of the Rule

Accordingly, Special Federal Aviation Regulation No. 44, as amended, (14 CFR Part 91) is revised to read as follows, effective September 9, 1981:

Special Federal Aviation Regulation No. 44–1

1. Each person shall, before conducting any operation under the Federal Aviation Regulations (14 CFR Chapter I), familiarize himself with all Notices to Airmen issued under § 91.100; when activated, with the provisions of the National Air Traffic Control Contingency Plan (FAA Order 7110.86), available for inspection at operating Air Traffic facilities and Regional air traffic division offices; and with all other available information concerning that operation.

2. Notwithstanding any provision of the Federal Aviation Regulations to the contrary, no person may operate an aircraft in the airspace under the jurisdiction of the United States—

(a) Contrary to any restriction, prohibition, procedure or other action specified in this Special Federal Aviation Regulation or specified by the Director of Air Traffic Service pursuant to paragraph 3 of this regulation and announced in a Notice to Airmen pursuant to §91.100 of the Federal Aviation Regulations, or

(b) If the National Air Traffic Control Contingency Plan is activated pursuant to paragraph 4 of this regulation, except in accordance with the pertinent provisions of the Contingency Plan (FAA Order 7110.86, dated February 27, 1981, as amended by Errata Change issued March 10, 1981, Errata Change No. 2 issued March 18, 1981, and Errata Change No. 3 issued June 19, 1981).

3. As conditions warrant or until activiation of the National Air Traffic Control Contingency Plan (Phase III), the

Director of Air Traffic Service is authorized to—

(a) Restrict, prohibit or permit VFR and/or IFR operations at any airport, Terminal Control Area or other terminal and enroute airspace;

(b) Give priority at any airport to flights that are military necessities, medical emergency flights, Presidental flights, and flights transporting critical Federal Aviation Administration employees;

(c) Implement at any airport or within enroute airspace flow control management procedures, including reduction of flight operations. Reduction of flight operations shall to the extent feasible made pro rata among and between air carrier, commercial operator, military and general aviation operations; and

(d) Implement the reduction schedule set forth in the Appendix to this regulation at the 22 airports specified in that Appendix; impose schedule reductions at other airports if operations at an airport cannot be safely and efficiently handled by the controller work force at the air traffic control facilities involved; and limit the number of daily operations of an air carrier at any airport based on the average daily arrival operations, on an hourly basis, at each airport, by the air carrier during the first six months of calendar year 1981, as shown in the Official Airline Guide.

4. If the actions taken in accordance with paragraph 3 of this regulation do not provide for the orderly movement of air traffic, the Director of Air Traffic Service may activate the National Air Traffic Control Contingency Plan (Phase III).

5. Upon activation of the National Air Traffic Control Contingency Plan (Phase III) and notwithstanding any provision of the Federal Aviation Regulations to the contrary, the Director of Air Traffic Service is authorized to suspend or modify any airspace designation (or chart).

6. All restrictions, prohibitions, and procedures established, and other actions taken by the Director of Air Traffic Service under this regulation with respect to the operation of the Air Traffic Control system will be announced by Notices to Airmen issued pursuant to § 91.100 of the Federal Aviation Regulations.

7. The Director of Air Traffic Service may delegate his authority under this regulation to the extent he considers necessary for the safe and efficient operation of the National Air Traffic Control System.

Appendix—Reduction Schedule for Designated Airports

1. Each air carrier conducting operations at an airport designated in this appendix shall determine a level of operations irrespective of IFR or VFR operations at each of the airports by taking the reduction percentage, multiplied by the number of its normally scheduled arrival flights for each hour specified. However, the number of daily arrival operations an airline uses as the basis for reductions at an airport shall not exceed the average daily arrival operations, on an hourly basis, at that airport, by the air carrier during the first six months of calendar year 1981 as shown in the Official Airline Guide (OAG). The results may be rounded to the nearest whole number. One-half or greater fraction shall be rounded to the next higher whole number. However, if during any hour of the six month period, only one flight was regularly scheduled, that flight need not be cancelled.

2. Each air carrier shall submit to the Director of Air Traffic Service the average daily arrival operations per hour computed under paragraph 1 of this appendix.

BILLING CODE 4910-13-M

HOUR	SCHEDULED REDUCTION	HOUR	SCHEDULED REDUCTION
ATL PLAN			
1200Z	41%	2000Z	41%
1300	42	2100	43
1400	44	2200	45
1500	43	2300	45
1600	44	0000	50
1700	43	0100	50
1800	43	0200	29
1900	43	0300	41
BOS PLAN			
1100Z	29%	1900Z	57%
1200	53	2000	39
1300	21	2100	63
1400	29	2200	53
1500	36	2300	46
1600	35	0000	50
1700	25	0100	67
1800	52		
CLE PLAN			
2300Z	25%		
0000	28		
DFW PLAN			
1200Z	44%	2000Z	47%
1300	43	2100	47
1400	11	2200	60
1500	45		
1600	42		
1700	40		
1800	14		
1900	53		

HOUR	SCHEDULED REDUCTION	HOUR	SCHEDULED REDUCTION
DEN PLAN			
1400Z	44%	0100Z	48%
1500	4	0200	8
1600	46		
1700	52		
2000	40		
2100	32		
2300	49		
0000	52		
DTW PLAN			
1200Z	40%	2000Z	30%
1300	34	2100	40
1400	48	2200	52
1500	20	2300	46
1600	25	0000	42
1800	46		
1900	52		
EWR PLAN			
1200Z	24%		
1900	13		
2000	37		
2100	24		
2200	24		
2300	27		
0000	24		
0100	36		
FLL PLAN			
No reductions			
IAH PLAN			
1200	22%	2100Z	39%
1400	24	2200	39
1500	29	2300	46
1600	29	0000	38
1700	29	0100	37
1800	30	0200	20
1900	36		
2000	23		

HOUR	SCHEDULED REDUCTION	HOUR	SCHEDULED REDUCTION
JFK PLAN			
1800Z	14%		
1900	54		
2000	66		
2100	48		
2200	32		
2300	50		
0000	32		
LAS PLAN			
1600Z	34%	0200Z	8%
1700	32		
1800	31		
1900	18		
2100	34		
2200	14		
0000	13		
0100	13		
LGA PLAN			
1100Z	27%	1900Z	35%
1200	49	2000	53
1300	37	2100	57
1400	33	2200	47
1500	45	2300	45
1600	50	0000	41
1700	33	0100	33
1800	50		
LAX PLAN			
1700Z	31%		
1900	19		
2300	27		
0000	30		
0100	41		
0200	30		
0300	37		
0400	18		
MIA PLAN			
1500Z	13%		
1600	10		
MCI PLAN			
No reductions			

HOUR	SCHEDULED REDUCTION	HOUR	SCHEDULED REDUCTION
MSP PLAN			
2100Z	16%		
2200	21		
ORD PLAN			
1200Z	33%	2000Z	46%
1300	46	2100	27
1400	30	2200	56
1500	46	2300	63
1600	44	0000	38
1700	31	0100	57
1800	48		
1900	46		
PHL PLAN			
1100Z	41%	1900Z	46%
1200	40	2000	55
1300	52	2100	50
1400	35	2200	50
1500	41	2300	41
1600	42	0000	46
1700	40	0100	35
1800	41		
PIT PLAN			
1100Z	35%	2000Z	53%
1200	59	2100	41
1300	55	2200	58
1500	34	2300	60
1600	47	0000	43
1700	45		
1800	49		
1900	53		

HOUR	SCHEDULED REDUCTION	HOUR	SCHEDULED REDUCTION
SFO PLAN			
1500Z	23%	2300Z	20%
1600	33	0000	47
1700	32	0100	43
1800	44	0200	48
1900	32	0300	48
2000	35		
2100	34		
2200	20		
1200Z	12%		
1300	47		
1600	39		
1700	16		
1800	50		
2000	60		
2200	65		
2300	43		
DCA PLAN			
1200Z	46%	2000Z	43%
1300	37	2100	38
1400	35	2200	43
1500	35	2300	47
1600	35	0000	48
1700	35	0100	52
1800	38		
1900	43		

BILLING CODE 4910-13-C

3. The Director of Air Traffic Service is authorized to—

(a) Make revisions and additions to the operations schedule established by an air carrier pursuant to paragraph 1 of this appendix to the extent the controller work force at the air traffic control facilities involved can accommodate those changes.

(b) Establish schedule reductions for any hour not specified in paragraph 1 of this appendix (nonpeak-operation hours) if excessive flights are rescheduled for any of those hours.

(c) Approve new or additional service into a designated airport. A new air carrier that had its application for an operating certificate on file with the Civil Aeronautics Board prior to August 3, 1981, will receive approval for some operations. Adjustments to other air carrier operations schedules may be made by the Director of Air Traffic Service to accommodate new air carriers. Other new entrants may be authorized to operate at the designated airports only if the then current capacity permits.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this rule is an emergency regulation under the provisions of Section 8 of Executive Order 12291 and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is impracticable for the FAA to follow the procedures of Executive Order 12291 applicable to regulations not issued in response to emergency situations because the safety and efficiency of the national air transportation system require immediate implementation of the rule. Voluntary compliance with this regulation is expected. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the persons identified under the caption "For Further Information Contact."

This is a final rule of the Administrator issued in accordance with the Federal Aviation Act of 1958, as amended. Thus, in accordance with section 1006 of the Act (49 U.S.C. 1486), it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C. on September 2, 1981.

J. Lynn Helms,

Administrator.

[FR Doc. 81-26155 Filed 9-3-81; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 135

[Docket No. 78P-0374]

Frozen Desserts; Ice Cream, Frozen Custard, Ice Milk, and Sherbet; Amendment to the Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for ice cream and frozen custard, ice milk, and sherbet to permit, in addition to sweet whey that is now permitted, the use of acid whey and modified whey products made from sweet and acid wheys as a source of whey solids. These whey sources may be used singly or in combination as long as the total whey solids do not exceed the maximum limits for whey solids allowed in the applicable frozen dessert standard. The maximum limits for total whey solids in these standardized frozen desserts remain unchanged.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Voluntary compliance: November 3, 1981.

Objections by: October 5, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 17, 1979 (44 FR 48265), FDA published a proposal to amend the standards of identity for ice cream and frozen custard, and sherbet (21 CFR 135.110 and 135.140, respectively) and, by cross-reference, the standard of identity for ice milk (21 CFR 135.120). FDA published the proposal in response to a citizen petition filed by the International Association of Ice Cream Manufacturers (IAICM), the Whey Products Institute (WPI), and Foremost Foods Co. The proposed amendment would permit the use of sweet whey, acid whey, and modified whey products made from sweet and acid wheys as a source of whey solids as long as the total amount of whey solids used does not exceed current limits in the frozen dessert standards.

FDA concludes that the proposed provisions for the use of whey and modified whey products are reasonable and is so providing in §§ 135.110(b) and 135.140(b) of the final regulations set forth below.

Eleven letters, each containing one or more comments, were received in response to the proposal. The issues raised in the comments and the agency's responses are as follows:

1. One comment objected to the proposal because it would allow more synthetic additives and less natural food.

FDA disagrees. The current ice cream regulation provides for the use of sweet whey (derived from the manufacture of sweet-curd-type cheeses) in an amount not to exceed 25 percent by weight of the total nonfat milk solids content of the finished product. The proposal to amend the regulation retains the 25-percent maximum usage level but would allow the optional use of acid whey (derived from the manufacture of acid-curd-type cheeses) and modified forms of sweet and acid wheys as a source of whey solids. Because both types of whey are derived from cheeses, the change in the standard does not allow the use of more synthetic additives.

2. One comment considered the terminology for "modified whey" in the preamble to the frozen dessert proposal to be inconsistent with the common or usual name proposed in the GRAS affirmation document published in the **Federal Register** of June 22, 1979 (44 FR 36416). In addition, one comment asserted that the absence of uniform common or usual names for acid whey and modified whey products would create unnecessarily confusing labeling requirements.

FDA disagrees. The GRAS affirmation proposal would establish common or usual names for acid whey and modified whey products, and these are the names to be used. The terminology for "modified whey" published in the preamble to the frozen dessert proposal was submitted by the International Association of Ice Cream Manufacturers as part of its petition. It was included in the preamble only as background

information and was not part of the proposal. It is not a part of the final regulation set forth below. Therefore, the standards of identity for frozen desserts require that when whey or modified whey products are used, they must be declared on the label by the common or usual name established by the final GRAS affirmation regulation, published elsewhere in this issue of the Federal Register.

The sole purpose of making reference in these standards to whey and modified whey products determined to be GRAS for use in frozen desserts, rather than listing each such ingredient by name, is to permit the use of whey or any ingredient derived from whey that is either affirmed as GRAS for such use in the final GRAS affirmation regulation or that may be affirmed as GRAS for such use by FDA at some future date. Thus, this amendment makes unnecessary further amendments to the frozen dessert standards for this purpose.

3. One comment questioned the nutritional equivalency concept as a valid basis for the use of acid whey and modified whey products.

FDA advises that, although nutritional equivalency is important, the primary basis for this amendment is to allow the use of additional suitable ingredients in frozen desserts. Further, independent studies and FDA's own nutrient comparison investigations demonstrate that the limited use of whey and modified whey products, as provided for in the final regulations, will not result in a measurable reduction in the nutrient value of frozen desserts. Copies of the reports on these studies and on FDA's investigations are on file with the Dockets Management Branch, Food and Drug Administration.

4. One comment recommended that 21 CFR 101.4(b)(7) be amended to read: "Whey, concentrated whey, reconstituted whey, dry whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate may be declared as 'whey' ".

FDA believes that this recommendation goes beyond the scope of the proposal. Any interested person who believes that 21 CFR 101.4(b)(7) should be amended to permit modified whey products to be declared as "whey" may submit a petition presenting reasonable grounds in support of this proposed amendment.

5. One comment asked whether the phrase "determined to be generally recognized as safe (GRAS)" refers to the other optional dairy ingredients listed in the standard as well as "modified wheys" or "whey and modified wheys".

FDA advises that the "other optional dairy ingredients" are already provided for in the frozen desserts standards. Any reconsideration of their status as ingredients in frozen desserts is not within the scope of these amendments to the frozen dessert standards.

6. One comment suggested that the frozen dessert standards would be revised to permit the use of any safe and suitable wheys or whey fractions so that the development of new kinds of whey fractions can continue. The comment suggested that, if this revision is not possible, FDA should at least permit the use of whey products determined independently by manufacturers to be GRAS, as well as those wheys and modified whey products listed in the GRAS affirmation proposal of June 22, 1979. The comment also suggested that, for clarity, the specific names of the wheys and modified whey products affirmed as GRAS should be listed in the revised standards.

FDA believes that it cannot assure that a measurable reduction in nutrient value of frozen desserts will not occur if it permits the use of any safe and suitable wheys and modified whey products or provides for the use of whey products determined independently to be GRAS. FDA recognizes that 21 CFR 170.30 states that general recognition of safety may be based on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to foods, and that such language would permit an independent evaluation of the GRAS status of such ingredients. However, the fact that a substance is GRAS only reflects its safety and not its nutritional value. The intent of these amendments to the frozen dessert standards is to permit the use in frozen desserts of those additional modified whey products that are not merely GRAS but that will not cause a measurable reduction in the nutrient value. FDA has determined that acid whey and the modified whey products that it has affirmed as GRAS will not cause such a reduction, and therefore, it is permitting their use.

FDA agrees that a clarification of the kinds of modified whey products permitted should be included in the standards. Thus, the phrase "* * * and whey and modified wheys determined to be generally recognized as safe (GRAS)" is changed to read "* * * and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 135 is amended as follows:

PART 135—FROZEN DESSERTS

1. In § 135.110 by revising paragraph (b) to read as follows:

§ 135.110 Ice cream and frozen custard.

* * * * *

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milkfat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form that has been modified by treating the concentrated skim milk with calcium hydroxide and disodium phosphate, and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Any whey and modified whey products used contribute, singly or in combination, not more than 25 percent by weight of the total nonfat milk solids content of the finished food. The modified skim milk, when adjusted with water to a total solids content of 9 percent, is substantially free of lactic acid as determined by titration with 0.1*N* NaOH, and it has a pH value in the range of 8.0 to 8.3.

* * * * *

2. In § 135.140 by revising paragraph (b) to read as follows:

§ 135.140 Sherbet.

* * * * *

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milkfat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, and whey and those modified whey products (e.g., reduced lactose whey, reduced minerals whey, and whey protein concentrate) that have been determined by FDA to be generally recognized as safe (GRAS) for use in this type of food. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent calculated as lactic acid. The term "milk" as used in this section means cow's milk.

* * * * *

Any person who will be adversely affected by the foregoing amendments may at any time on or before October 5, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each number objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 3, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. FDA will publish in the **Federal Register** notice of the filing of objections, or that no objections were filed.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: August 11, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25544 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 184

[Docket No. 78N-0369]

GRAS Status of Whey, Whey Products and Hydrogen Peroxide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that whey and certain modified whey products are generally recognized as safe (GRAS) as direct human food ingredients, and that hydrogen peroxide is GRAS for use as an antimicrobial agent in cheesemaking and whey processing. This action is taken in response to petitions requesting such affirmations.

EFFECTIVE DATE: September 4, 1981. Compliance with the labeling provisions of this final regulation may begin immediately. Labeling of all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983 shall comply with these provisions.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: Under the procedures established in § 170.35 (21 CFR 170.35), Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104, submitted a petition (GRASP 3G0011) requesting affirmation that delactosed whey, demineralized whey, and delactosed-demineralized whey are GRAS for use in foods, and that hydrogen peroxide is GRAS for use as an antimicrobial agent in the processing of whey. FDA published a notice of the filing of this petition in the **Federal Register** of March 7, 1973 (38 FR 6215). Seven comments were received in response to this notice. A subsequent petition by the Whey Products Institute, to establish common or usual names for whey and modified whey products, made it evident that additional safety information from other whey processors was needed to determine the proper regulatory status of these products before common or usual names could be adopted for the ingredients. In the **Federal Register** of December 17, 1975 (40 FR 58485), FDA requested submission of additional GRAS affirmation petitions and safety data on modified whey products produced by other processors. As stated in that notice, the agency intended to make a class determination whether sufficient safety data were available to affirm the GRAS status of these products and to establish common or usual names through GRAS regulations if sufficient data were available.

In response to the above notice, FDA received nine additional petitions. FDA published notice of the filing of these petitions in the **Federal Register** of June 22, 1979 (44 FR 36416). No comments were received in response to the notice. The petitioners and the GRAS numbers assigned to their petitions are as follows:

GRAS Petition

Number	Petitioner
6G0063	Frank Thomas, Greenwood, WI 54437.
6G0065	Dean Foods Co., 1126 Kilburn Ave., Rockford, IL 61101.
6G0068	Stauffer Chemical Co., Westport, CT 06880.
6G0070	Western General Dairies, Inc., 195 West 7200 South, Midvale, UT 84047.
6G0071	Purity Cheese Co., P.O. Box 27, Mayville, WI 53050.
6G0073	Borden, Inc., 180 E. Broad St., Columbus, OH 43215.
6G0075	Land O'Lakes, Inc., P.O. Box 116, Minneapolis, MN 55440.
6G0076	Krafico Corp., 135 S. LaSalle St., Chicago, IL 60603.
6G0078	Tetroid Co., Inc., Hamilton, NY 13346.

A copy of each petition was made available for public examination and comment at the Dockets Management Branch (formerly the Hearing Clerk's office), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

In response to the petitions, the agency published a proposed regulation in the **Federal Register** of June 22, 1979

(44 FR 36416). The proposed regulation listed common or usual names and definitions for the whey products, descriptions of the manufacturing processes, approximate compositions, methods of analyses, specifications, and indicated good manufacturing practice (GMP) uses and levels of use in foods for the ingredients. The publication of regulations proposing affirmation of GRAS status for hydrogen peroxide and for whey and modified whey products followed a determination by FDA, based on the data and information that had been submitted, that the proposed uses of these ingredients were GRAS.

FDA received no comments that questioned the safety of the whey products or the hydrogen peroxide. However, a prepublication manuscript of an animal study by Ito, Watanabe, and Niato suggested that hydrogen peroxide may cause cancer in the duodenum of mice. (An official of the Embassy of Japan in Washington, DC, provided FDA with the manuscript.) The Japanese study was a lifetime carcinogenicity study in which hydrogen peroxide in drinking water at 0.1 percent and 0.4 percent was administered to C57B1/6J mice for 108 weeks.

The agency has considered the available safety data on hydrogen peroxide, including the Japanese study and subsequent clarification obtained from the authors. FDA concludes after this review that there is not sufficient evidence from the Japanese study and elsewhere to conclude that hydrogen peroxide is a duodenal carcinogen. The agency made the same determination in adopting the regulation that permits the use of hydrogen peroxide as a sterilizing agent for polyethylene used in contact with food (21 CFR 178.1005) (46 FR 2341; January 9, 1981). The manuscripts of the Japanese study and memoranda of FDA's Cancer Assessment Committee meetings, along with other articles referenced, are on public file under the docket number for this document at the Dockets Management Branch (address above), and may be seen from 9 a.m. to 4 p.m., Monday through Friday.

The agency has also evaluated whether any residual hydrogen peroxide may occur in cheese and whey products from use in processing. Hydrogen peroxide rapidly decomposes to oxygen and water when used as a bleaching agent or, as in cheesemaking and whey processing, as an antimicrobial agent. However, because of analytical limitations for detecting residual hydrogen peroxide in food (the detection limit is approximately 10 parts per million (ppm)), the degree of decomposition of hydrogen peroxide at levels less than 10 ppm is unknown. It is well known, however, that hydrogen peroxide is very reactive, and that many substances either promote or catalyze its decomposition. Either added or naturally occurring catalase and peroxidase enzymes cause an extremely rapid decomposition of hydrogen peroxide, while many metal ions and organic substances cause much slower decomposition. Increases in temperature and an increase in pH also contribute to more rapid rates of decomposition of this substance.

In evaluating potential residual levels below 10 ppm of hydrogen peroxide in food, it is relevant that Amin and Olson (Ref. 1) have shown that 500 ppm of hydrogen peroxide underwent negligible decomposition after 2 hours in distilled water at 37.8° C (100° F). Under similar conditions, breakdown amounted to 5 percent in standard phosphate buffer, 30.3 percent in sterilized reconstituted nonfat dry milk, 37.2 percent in sterilized homogenized whole milk, and 66.2 percent in raw milk in the same time period. The significantly enhanced rate of decomposition observed in raw whole milk was attributed to the naturally occurring presence of catalase and peroxidase enzymes in raw milk. Dempsey, et al. (Ref. 2) also found that the half-life for the decomposition of hydrogen peroxide in sterilized reconstituted skim milk was about 2 hours at 25° C (77° F).

During the preparation of demineralized whey, delactosed whey, and demineralized-delactosed whey, hydrogen peroxide is added at a maximum level of 400 ppm, prior to demineralization and lactose crystallization, to prevent bacterial growth that is likely to occur under the conditions of elevated temperatures (29.4° to 48.9° C (85° to 120° F)) employed during these steps. Following whey fractionation, catalase is then added to eliminate the hydrogen peroxide. Analytical measurements following catalase treatment are unable to detect hydrogen peroxide residues at a level of 10 ppm in the liquid-fractionated whey.

In a similar use for cheesemaking, hydrogen peroxide is added to milk at a maximum level of 500 ppm to reduce the number of bacteria in the milk at the beginning of the cheesemaking process. The hydrogen peroxide decomposes rapidly, and catalase enzymes are added to destroy any residual hydrogen peroxide prior to the addition of cheesemaking enzymes. This use of hydrogen peroxide has been practiced since at least the early 1950's without any known detrimental effect or any observed residual levels of hydrogen peroxide in the cheese or whey byproduct.

Based on experimental data in the cited articles (Refs. 1 and 2), it appears that nearly all added hydrogen peroxide is destroyed in cheesemaking and whey fractionation before the addition of catalase, and that the addition of catalase enzyme virtually assures its destruction. As a result, the agency concludes that the projected level of hydrogen peroxide in either the processed whey or in the subject cheeses, although not analytically detectable, approaches the intracellular level reported to be in the liver of rats (and supposedly humans as well) and is so low that the two uses of hydrogen peroxide in cheesemaking and whey manufacture can be affirmed as GRAS.

Of the 45 comments on the proposal, 35 were from individual firms, 6 were from associations, 2 were from attorneys, and 2 were from other agencies in the Federal government. A summary of the comments and the agency's responses follow:

1. Two comments concerned the use of hydrogen peroxide in the processing of cheese and whey. The U.S. Department of Agriculture (USDA) stressed the need for the final regulation to permit the use of hydrogen peroxide according to good manufacturing practices and not to serve as a substitute for them. The other comment objected to the proposed use of hydrogen peroxide "in the holding tank before processing," because this phrase suggested that the hydrogen peroxide may be added only to the stored whey before processing and not during its fractionation.

FDA agrees with USDA's comment that all uses of hydrogen peroxide must be limited to the minimum amount necessary to produce the intended technical effects and cannot be substituted for other good manufacturing practices, including sanitary practices. The use levels of hydrogen peroxide affirmed as GRAS in this regulation are the maximum levels of good manufacturing practice (GMP) use reported to the agency and should not be interpreted as encouragement to use these levels if it is not necessary to do so. Section 184.1 (21 CFR 184.1) of the GRAS affirmation regulations clearly states this policy.

In response to the second comment, FDA has amended the final regulation to permit the continued existence of hydrogen peroxide in whey during fractionation. Although hydrogen peroxide is usually added to the processing tank, it need not be removed, with catalase, before fractionation.

2. Twenty comments took issue with the indicated GMP technical effects, food categories, and levels of use in the proposal for these whey and whey products. New technical effects and an expansion of use to include virtually all food categories, at various levels, were requested for whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate. The comments stated further that the proposed regulation did not establish any safety basis to limit use of these ingredients to present uses. In addition, a comment argued that these limits would serve only to prevent developing technology aimed at increasing the use of these highly nutritious and, at present, largely wasted food materials. Another comment pointed out that it would be inconsistent to establish the same GMP levels for use in food of two substances that may vary widely in their composition. For example, one whey protein concentrate may contain 30 percent protein, while another contains 80 percent protein. It was also argued that the levels of use of these whey and whey products are self-limiting, because of the taste factor. Finally, comments expressed concern the GMP levels of use in these GRAS regulations would exceed those levels permitted in the food standards.

After full consideration of these comments, FDA has concluded that designation of GMP technical effects, food categories, and levels of use should not be included in this final regulation. These matters were included in the proposal to list the technical effects, food categories, and levels of use that were presented to FDA as part of the several petitions it received and not to limit potential future use of these substances. There is no known safety hazard with present or potential food uses of these ingredients, and, therefore, there is no basis to establish or to imply that these ingredients need to be limited for future food use on the basis of safety. The final regulations have been amended to state that whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate may be used in food in accordance with good manufacturing practice as indicated in § 184.1(b)(1).

Removal of the listing of the food categories and subcategories from the final regulation is also responsive to the concerns raised by several comments over the possibility of conflict between these GRAS regulations and certain food standards. The agency emphasizes, however, that the limitations established in the food standards take precedence over any use suggested by the GRAS regulations. Removal of food standard limitations requires submission of a petition and FDA's approval of changes in those standards.

3. Four comments expressed concern that the intended labeling provisions for whey, reduced lactose whey, reduced minerals whey, and whey protein concentrate in the proposed regulation were not clear for bulk packaging and did not address packaging for finished food products. Six additional comments requested that § 101.4(b)(7) (21 CFR 101.4(b)(7)) be amended to permit all of these ingredients to be labeled as "whey" in finished food products, while three other comments favored amending § 101.4(b)(7) to permit reduced lactose whey, reduced minerals whey, and whey protein concentrate to be labeled "modified whey." Other comments stated that requirements for bulk labeling in these whey regulations were unnecessary and were provided by § 184.1(f), that these whey and whey products were exempted from bulk labeling under § 101.9(h)(8) (21 CFR 101.9(h)(8)), and that the need for labeling was eliminated by § 102.5(b)(1) (21 CFR 102.5(b)(1)), which deals with nonstandardized foods.

In the proposed regulation, FDA did not address the labeling requirements for whey and whey products on finished food labels because it was unnecessary to do so. Section 101.4(b)(7) clearly permits the use of the name "whey" on finished food labels when whey, concentrated whey, reconstituted whey, and dried whey are used as source ingredients. Therefore, this final regulation does not affect the finished food labeling for whey, concentrated whey, reconstituted whey, and dried whey. This final regulation does however, establish names, definitions, approximate compositions and specifications for identifying these ingredients except for reconstituted whey, when supplied to food manufacturers. Reconstituted whey is not addressed in this regulation because it is the name of a product produced by adding water to dry whey. Thus, the resultant product is equivalent to whey or concentrated whey, depending on the amount of added water. Section 184.1(f) also applies to bulk labeling for these ingredients when sold to food manufacturers. The regulation for whey has been modified to clarify FDA's intent.

Adoption in the proposed regulation of specific names and descriptions for reduced lactose whey, reduced minerals whey, and whey protein concentrate was intended to establish common or usual names for these ingredients. These names may be used on finished food labels and on intermediate mixes sold to food manufacturers. Because § 101.4(a) permits the use of common or usual names for finished food labels, it is not necessary to adopt these names in § 101.4(b)(7). However, the proposed regulation did not make it clear that finished food products would need to declare only reduced lactose whey, reduced minerals whey, or whey protein concentrate and would not need to include the more descriptive names required for intermediate mix labeling, i.e., reduced lactose whey (55 percent lactose). This final regulation has been modified to clarify FDA's intent.

The agency has also considered whether it should amend Part 101 (21 CFR Part 101) to permit the use of names such as "modified whey" or "whey products" for ingredient listing of reduced lactose whey, reduced minerals whey, and whey protein concentrate on finished food product labels, and whether it should expand the use of the term "whey" for this purpose. FDA has decided that both of these actions are inappropriate because the more descriptive names of "reduced lactose whey," reduced minerals whey," and "whey protein concentrate" better identify these ingredients. Therefore, FDA has not made any substantive change in the final regulation to respond to these comments.

4. Eleven comments expressed concern about the proposed definition of whey. Specific concern was expressed about the limited definition of whey as "obtained from cheesemaking." One comment argued that this limited definition would have the effect of eliminating casein whey from food use. Many of these comments expressed concern about the narrow definitions of sweet whey and acid whey. In the proposed regulation, these types of whey were differentiated only on the basis of the amount of lactose converted to lactic acid. The comments observed that this differentiation does not consider wheys obtained from production of such cheese products as cottage cheese, that are made by directly acidifying with acids and without relying on lactic acid to contribute significantly to the acidity. Also, there was general disagreement with the propqsed regulation's intent to define sweet whey and acid whey within the general definition for whey. In addition, three comments argued that intermediate pH wheys are obtained from cheesemaking process, and that it was therefore necessary to define a third type of whey if the proposed approach is adopted.

After considering these comments, the agency concludes that if information were provided to the food processor on the percent titratable acidity in the whey, it would not be necessary for this regulation to define sweet whey or acid whey. However, to provide that whey may be either sweet or acid, without specific identification of the titratable acidity of either type of whey, requires that at least one of these types of whey be defined in the general definition for whey. The proposed definition for sweet whey therefore has been retained in the final regulation. However, FDA also has amended the regulation to permit whey suppliers to identify whey, concentrated whey, and dried whey as sweet products or as acid products or to declare the percent titratable acidity on the label of the intermediate mix.

Finally, FDA has considered whether it is desirable to identify a third type of whey within this definition (intermediate pH whey). The agency has concluded that such a definition could be confusing and possibly misleading. In addition, because this type of whey falls in the titratable acidity range of acid whey, its identity is disclosed by the name acid whey or by the titratable acidity level.

Even with these changes in the final regulation, food manufacturers are free to require that whey suppliers provide detailed information on the acidity of their products, as well as other compositional data, if this information is needed.

The proposed definition of whey included only whey from cheesemaking because no petitions were submitted on casein whey. As a result, the final regulation does not deal with casein whey. FDA approval of this substance will require the submission of a separate GRAS affirmation or food additive petition under the procedures outlined in § 170.35 or § 171.1 (21 CFR 171.1). FDA has retained the original reference to cheesemaking in the final regulation.

FDA has changed the final regulation to eliminate the reference to substantial lactic acid acidity as part of the definition for acid whey. The regulation states that acid whey may be obtained from direct acidification cheesemaking processes.

5. Sixteen comments objected to some aspect of the identified names for the whey products or their definitions. Most objected to the use of the word "dried" as part of the title for all whey products, because these whey products are commercially available as fluid, concentrated, and dry products. Other comments expressed a preference for the term "condensed," rather than "concentrated," for those wheys from which some moisture has been removed. In addition, the comments stated that the terms "dry" and "condensed" would be most appropriate because these terms have been used to describe similar milk products intended for human consumption.

The words "dried" and "concentrated" were used in the proposed regulations for whey and whey products because these words are used in § 101.4(b)(7) to identify the forms of whey that can be listed as "whey" on a package label. The agency agrees that "dry" and "dried" are synonymous as they relate to both whey and milk products, and it has modified the regulation to provide for the use of "dry" or "dried" as the descriptor. Thus, the industry can continue its present practice of identifying whey intended for human consumption as "dry whey" and whey intended for animal uses as "dried whey." However, the words "concentrated" and "condensed" do not relate to whey and milk products that are similar. In the milk standards, the term "condensed" is associated with a product to which a nutritive carbohydrate sweetener is added, and from which some water is removed. However, "concentrated milk" is a term for a product from which some water is removed but to which no sweetener is added. Only the latter product is analogous to concentrated whey. Thus, the term "concentrated whey" has been established and has been retained as the descriptive name for this form of whey.

6. Some comments on the proposed regulation objected to the use of the term "selective removal" to describe removal of lactose and minerals to produce reduced lactose whey and reduced minerals whey. The comments emphasized that in the process of producing these whey products, it is impossible to prevent the removal of components other than the one named. In addition, the comments insisted that the requirement for the removal of a stated percentage of lactose or of minerals to produce these reduced wheys is both needless and unenforceable, because of the variable ingredient percentages in the starting wheys. Furthermore, the comments argued that the regulation should rely on the label statement of the percentage of the ingredients in the final product.

FDA is replacing the term "selective removal" with the term "removal". This change will make it clear that components other than the one indicated in the title may also be removed in the manufacture of reduced lactose whey and reduced minerals whey. The final regulation has also been modified to eliminate reference to the amounts of lactose or minerals expected to be removed from the starting whey and to make it clear that the final product compositions are the only relevant limitations for these products.

7. Nine comments addressed the proposed methods of preparation for reduced lactose whey, reduced minerals whey, and whey protein concentrate. Some stated that the proposed regulation failed to list all the methods used to prepare the modified wheys, such as reverse osmosis, ultrafiltration, and other membrane technology. The Comments expressed concern that the listed methods were the only ones that would be permitted. Other comments stated that descriptions of the methods for preparing the modified wheys should be shorter and more general or not included in the regulation at all. One comment stated that the methods of preparation had been described in the petition; that they are common knowledge throughout the industry; and that their inclusion in the regulation would inhibit the development of more efficient acceptable practices.

FDA realizes that to describe all manufacturing processes in detail would result in a regulation that is unnecessarily specific. Also, the agency did not believe that discussions of the methods are needed in the regulation because a number of the methods were already discussed in detail in the preamble to the proposed regulation. The agency does not intend to limit the processing methods that may be used. Furthermore, the agency has no objection to the use of newly developed physical separation techniques, if there are no new toxicants introduced as a result of use of these techniques, and if these techniques do not result in a concentration of natural toxicants in whey products. FDA believes that such results can be avoided by the use of good manufacturing practices and by the establishment of specifications for heavy metals. Therefore, the agency has used the term "prepared by physical separation techniques *such as* precipitation, filtration, or dialysis" (emphasis added) to describe briefly the methodologies that have been reviewed and at the same time to avoid eliminating other acceptable methods.

8. Thirteen comments objected to the methods proposed to determine the levels of fat, protein, ash, lactose, and moisture in whey and whey products. The comments were concerned that the proposed Association of Official Analytical Chemists (AOAC) methods were for cereal products and liquid milk.

The comments suggested use of alternative AOAC methods, except those for fat and moisture determinations. The methods suggested for fat determination were the same as those in the proposal, and the methods for moisture analysis was one published in a USDA directive. The Comments stated that these methods were used by industry in milk and whey analyses.

The agency has examined the methodology recommended in the proposed regulation and the alternative methods proposed by these comments. There are only two differences between these methods: the type of sample and the size of the sample. FDA's proposed method, the AOAC method, analyzes a liquid sample weighing 5 grams. The industry uses a dried sample weighing 1 gram. Although the latter sample is smaller, the analysis is done on a larger amount of solids, because liquid milk contains about 13 percent solids. Additionally, the description of these products permits both liquid and solid forms. As a result, the agency has adopted both AOAC methods for analysis of ash, protein, and lactose for appropriate forms of the product. However, this final rule does not adopt the method for moisture analysis described in the USDA directive. Although the USDA method may be an acceptable screening method, § 2.19 (21 CFR 2.19) requires that FDA use AOAC methods of analysis, when available, for enforcement purposes. Therefore, the agency has replaced the proposed AOAC method for determining moisture in cereals with another more applicable AOAC method for determining moisture in milk.

9. Five comments objected to the proposed percentage increments for use in the label declarations on bulk packages of whey and whey products for protein (5 percent), lactose (5 percent), and minerals (2 percent) as being impractical, unnecessary, or representing too great an economic variation. These comments preferred 2 percent increments for protein and lactose and 1 percent increments for minerals, because they contended that food processors needed more accurate information on the component levels than the proposed increments would provide.

The agency had proposed the indicated increments for stating the percentages of the components on the labels for whey products to enable the whey processor to meet the bulk lable declarations regardless of the slight variability that may result from processing methodology. FDA believed that the large proposed increments would enable the whey processor to standardize its procedures and still meet the desired percentage of the appropriate component in the whey products. FDA did not anticipate the five comments' desire for more exact statements of percentages. It is the agency's opinion, however, that insistence on label declarations using smaller increments might cause compliance problems for smaller firms. Therefore, the agency has resolved the matter by permitting a choice of using either the proposed increments on the lable declarations or smaller incremental declarations. If smaller increments are used, an analysis, as described by the regulations, must be supplied to the food manufacturer. FDA has changed the regulations to permit this choice.

10. Eight comments requested changes in the proposed component ranges for the various whey products. Several comments expressed concern that the percentage ranges did not resemble those found in existing whey products. One comment suggested that the ranges be adjusted to relate to other whey products. For example, because whey protein concentrate contains a minimum of 25 percent protein, the percent protein level in the reduced lactose or reduced minerals whey should be as high as 24 percent, which is easily attainable in a reduced lactose whey. Similarly, whey and whey products could have a range of fat from 0.2 to 4.0 percent, depending on the milk source used to make the cheese.

The agency agrees that the percentage ranges stated in the comments are consistent with those found in current products and has modified the percentage ranges for the various components of whey and whey products to conform to those ranges that were suggested in the comments.

11. Three comments objected to the agency's failure to include in the proposed regulation two proposed modified whey products, whey minerals concentrate and whey lactose concentrate. Whey minerals concentrate is produced by the removal of high percentages of protein and lactose. Whey lactose concentrate is produced by the removal of high percentages of protein and minerals. The comments stated that these products were mentioned in the preamble to the proposed regulation by use of the term "liquid permeate".

FDA did not consider these two whey products in the proposed regulation because data submitted to the agency suggested that the permeate byproducts of reduced lactose whey, reduced minerals whey, and whey protein concentrate were processed further to remove lactose, and then discarded. The agency was informed by one petitioner that potential permeate uses were clearly not as human food but as bacterial media ingredients and cattle mineral sources. However, the agency believes that these two products are suitable subjects for food additive or GRAS affirmation petitions, if any interested person wishes approval of these products for human uses.

12. One comment requested information on the status of a "reduced" lactose whey, in which lactose reduction involved the enzymatic or other hydrolysis of lactose in whey to glucose and galactose.

FDA's intent in this review has been to evaluate the safety of physical separation methods for producing whey products. The agency has not reviewed the safety or established specifications for modified whey products produced by chemical hydrolysis or enzymatic processes and cannot comment on the applicability of these methods without more information. Important information required to evaluate these processes would include the chemical system used to produce hydrolysis, the bacteriological source of the enzymes, and the specifications for the finished reduced lactose whey. The agency, therefore, recommends the submission of a food additive or GRAS affirmation petition containing such information.

13. Four comments expressed concern about the proposed classification of their currently marketed products, which are sold as denatured albumin, concentrated reduced minerals whey, concentrated reduced lactose whey, and concentrated whey protein concentrate.

In the proposed regulation, the agency discussed the review of precipitation procedures to isolate whey protein. With the use of heat, whey protein is denatured and precipitates out of solution. It is then removed by the use of a centrifugal decanter and filtration. This method is capable of producing a whey protein concentrate with a level of protein greater than 90 percent on a dry basis.

When FDA prepared the proposal, it did not include concentrated reduced lactose whey, concentrated reduced minerals whey, and concentrated whey protein concentrate because FDA believed that the dried form was the article of commerce and did not know that the liquid and concentrated forms of the whey products also were articles of commerce. However, the agency has corrected this error in the final regulation and believes that these

products will fit into established whey product categories.

14. One comment requested information on whether FDA intends to permit unlimited pH adjustment for whey. A second comment requested that FDA permit pH adjustment for reduced minerals whey, reduced lactose whey, and whey protein concentrate.

The agency does not believe there is cause for concern in permitting the use of pH-adjusting agents in whey or whey products, because the use of these agents is self-limiting. The pH of whey is on the acidic side. The use of alkali to elevate the pH could result in precipitation of the protein if the isoelectric pH is reached. If the pH reaches the alkaline side, precipitation in the form of alkaline lactalbuminates will occur. Therefore, FDA expects that the pH-adjusting agents will be used only in accordance with good manufacturing practice for minor pH adjustment. The agency did not intend to imply in the proposed regulation, by mentioning pH adjustment for whey and not for whey products, that pH adjustment was not permitted for whey products. FDA has revised the final regulation for clarity.

15. One comment requested information about how a product composed of a mixture of whey protein concentrate and a soy protein concentrate should be labeled.

The agency does not believe that it should consider the labeling of this mixture in this final regulation. Nevertheless, FDA advises that a mixture of these two ingredients should be labeled in accordance with Part 101 and § 184.1(f). Section 184.1(f) indicates that the concentration of each of the two protein sources must be declared on the label of the intermediate mix.

16. Two comments stated that the issuance of GRAS regulations for whey, whey protein concentrate, reduced minerals whey, and reduced lactose whey were inappropriate because these products are foods rather than food ingredients, additives, or chemicals. The comments suggested that these definitions should be established through food standard regulations.

The agency believes that it is appropriate to regulate whey and whey products as food ingredients. Whey is a byproduct of cheesemaking, and whey protein concentrate, reduced minerals whey, and reduced lactose whey are manufactured substances made from whey. These substances are used as components in many food categories, including many standardized foods. In addition, as indicated by the petitions that have been submitted, the whey processors themselves consider these substances to be food ingredients.

Furthermore, it is incorrect to conclude that GRAS regulations are issued only for "chemicals". Although it is true that most GRAS ingredients are synthetically produced, there are also numerous naturally produced and refined natural ingredients included in GRAS regulations. Therefore, the agency concludes that GRAS regulations for these ingredients are appropriate.

References

1. Amin, V. M. and N. F. Olson, "Effect of Temperature on Stability of Hydrogen Peroxide in Milk," *Journal of Dairy Science*, 50(8): 1336–1338, 1967.

2. Dempsey, P. M., J. O'Leary, and S. Condon, "Polargraphic Assay of Hydrogen Peroxide Accumulation in Microbial Cultures," *Applied Microbiology*, 29: 170–174, 1975.

There is no requirement to prepare a Regulatory Impact Analysis under section 3(a) of Executive Order 12291, because this rule is not a major rule as defined in section 1(b) of Executive Order 12291. Because the effect of this rule will be to affirm the safety and maintain all known uses of the ingredients reviewed that are current practice within the food industry, this rule will not result in an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. By adding new § 184.1366, to read as follows:

§ 184.1366 Hydrogen peroxide.

(a) Hydrogen peroxide (H_2O_2, CAS Reg. No. 7722–84–1) is also referred to as hydrogen dioxide. It is made by the electrolytic oxidation of sulfuric acid or a sulfate to persulfuric acid or a persulfuric acid salt with subsequent hydrolysis and distillation of the hydrogen peroxide formed; by decomposition of barium peroxide with sulfuric or phosphoric acid; by hydrogen reduction of 2-ethylanthraquinone, followed by oxidation with air, to regenerate the quinone and produce hydrogen peroxide; or by electrical discharge through a mixture of hydrogen, oxygen, and water vapor.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d ed. (1981), pp. 146–147,[1] which is incorporated by reference.

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level of use in milk during the cheesemaking process of 0.05 percent of the weight of the milk and of 0.04 percent of the weight of the whey during the processing of the whey. In either case, the residual hydrogen peroxide is removed by using a suitable catalase preparation.

(e) This regulation is issued before completion of general evaluation of the use of this ingredient in order to affirm as GRAS the specific use named.

2. By adding new § 184.1979, to read as follows:

§ 184.1979 Whey.

(a)(1) *Whey.* Whey is the liquid substance obtained by separating the coagulum from milk, cream, or skim milk in cheesemaking. Whey obtained from a procedure, in which a significant amount of lactose is converted to lactic acid, or from the curd formation by direct acidification of milk, is known as acid whey. Whey obtained from a procedure in which there is insignificant conversion of lactose to lactic acid is known as sweet whey. Sweet whey has a maximum titratable acidity of not more than 0.16 percent, calculated as lactic acid, and an alkalinity of ash of not more than 225 milliliters of 0.1*N* Hydrochloride per 100 grams. The acidity of whey, sweet or acid, may be adjusted by the addition of safe and suitable pH-adjusting ingredients.

(2) *Concentrated whey.* Concentrated whey is the liquid substance obtained by the partial removal of water from whey, while leaving all other

[1] Copies may be obtained from the National Academy of Sciences, 2101 Constitution Ave. NW, Washington, DC 20037, or examined at the Office of the Federal Register, 1100 L St. NW, Washington, DC 20408.

constituents in the same relative proportions as in whey.

(3) *Dry or dried whey.* Dry or dried whey is the dry substance obtained by the removal of water from whey, while leaving all other constituents in the same relative proportions as in whey.

(b) The ingredients meet the following specifications:

(1) The analysis of whey, concentrated whey, and dry (dried) whey, on a dry product basis, based on analytical methods in the referenced sections of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th ed. (1980),[2] which is incorporated by reference, is:

(i) Protein content, 10 to 15 percent—as determined by the methods prescribed in section 16.036 (liquid sample), entitled "Total Nitrogen—Official Final Action" under the heading "Total Solids," or in section 16.193 (dry sample), entitled "Kjeldahl Method" under the heading "Protein—Official Final Action."

(ii) Fat content, 0.2 to 2.0 percent—as determined by the methods prescribed in section 16.059 (liquid sample), "Reese-Gottlieb Method [Reference Method] (11)—Official Final Action" under the heading "Fat," or in section 16.199 (dry sample), entitled "Fat in Dried Milk (45)—Official Final Action."

(iii) Ash content, 7 to 14 percent—as determined by the methods prescribed in section 16.035 (liquid sample), entitled "Ash (5)—Official Final Action" under the heading "Total Solids," or in section 16.196 (dry sample), entitled "Ash—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(iv) Lactose content, 61 to 75 percent—as determined by the methods prescribed in section 16.057 (liquid sample), entitled "Gravimetric Method—Official Final Action" under the heading "Lactose," or in section 31.061 (dry sample), entitled "Lane-Eynon General Volumetric Method" under the heading "Lactose—Chemical Methods—Official Final Action."

(v) Moisture content, 1 to 8 percent—as determined by the methods prescribed in section 16.192, entitled "Moisture (41)—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(vi) Solids content, variable—as determined by the methods prescribed in section 16.032, entitled "Method I—Official Final Action" under the heading "Total Solids."

(vii) Titratable Acidity, variable—as determined by the methods prescribed in section 16.023, entitled "Acidity (2)—Official Final Action" under the heading "Milk," or by an equivalent potentiometric method.

(2) Limits of impurities are:

Heavy metals (as lead). Not more than 10 parts per million (0.001 percent) as determined by the method described in the Food Chemicals Codex, 3d ed. (1981), pp. 512–513,[1] which is incorporated by reference.

(3) The whey must be derived from milk that has been pasteurized, or the whey and modified whey product must be subjected to pasteurization techniques or its equivalent before use in food.

(c) Whey, concentrated whey, and dry (dried) whey may be used in food in accordance with good manufacturing practice as indicated in § 184.1(b)(1).

(d) The label on the whey form sold to food manufacturers shall read as follows:

(1) For whey: "(Sweet or acid) whey" or "whey (——% titratable acidity).

(2) For concentrated whey: "Concentrated (sweet or acid) whey, ——% solids" or "Concentrated whey (——% titratable acidity), ——% solids".

(3) For dry (dried) whey: "Dry (dried) (sweet or acid) whey" or "dry (dried) whey, (——% titratable acidity)".

(e) Whey, concentrated whey, or dry (dried) whey in a finished food product shall be listed as "whey."

3. By adding new § 184.1979a, to read as follows:

§ 184.1979a Reduced lactose whey.

(a) Reduced lactose whey is the substance obtained by the removal of lactose from whey. The lactose content of the finished dry product shall not exceed 60 percent. Removal of the lactose is accomplished by physical separation techniques such as precipitation, filtration, or dialysis. As with whey, reduced lactose whey can be used as a fluid, concentrate, or a dry product form. The acidity of reduced lactose whey may be adjusted by the addition of safe and suitable pH-adjusting ingredients.

(b) The reduced lactose whey meets the following specifications:

(1) The analysis of reduced lactose whey, on a dry product basis, based on analytical methods in the referenced sections of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th ed. (1980),[2] which is incorporated by reference, is:

(i) Protein content, 16 to 24 percent—as determined by the methods prescribed in section 16.036 (liquid sample), entitled "Total Nitrogen—Official Final Action" under the heading "Total Solids," or in section 16.193 (dry sample), entitled "Kjeldahl Method" under the heading "Protein—Official Final Action."

(ii) Fat content, 1 to 4 percent—as determined by the methods prescribed in section 16.059 (liquid sample), "Reese-Gottlieb Method [Reference Method] (11)—Official Final Action" under the heading "Fat," or in section 16.199 (dry sample), entitled "Fat in Dried Milk (45)—Official Final Action."

(iii) Ash content, 11 to 27 percent—as determined by the methods prescribed in section 16.035 (liquid sample), entitled "Ash (5)—Official Final Action" under the heading "Total Solids," or in section 16.196 (dry sample), entitled "Ash—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(iv) Lactose content, not more than 60 percent—as determined by the methods prescribed in section 16.057 (liquid sample), entitled "Gravimetric Method—Official Final Action" under the heading "Lactose," or in section 31.061 (dry sample), entitled "Lane-Eynon General Volumetric Method" under the heading "Lactose—Chemical Methods—Official Final Action."

(v) Moisture content, 1 to 6 percent—as determined by the method prescribed in section 16.192, entitled "Moisture (41)—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(vi) Solids content, variable—as determined by the methods prescribed in section 16.032, entitled "Method I—Official Final Action" under the heading "Total Solids."

(vii) Titratable Acidity, variable—as determined by the methods prescribed in section 16.023, entitled "Acidity (2)—Official Final Action" under the heading "Milk," or by an equivalent potentiometric method.

(2) Limits of impurities are:

Heavy metals (as lead). Not more than 10 parts per million (0.001 percent), as determined by the method described in the Food Chemicals Codex, 3d ed. (1981), pp. 512–513,[1] which is incorporated by reference.

(3) The reduced lactose whey shall be derived from milk that has been pasteurized, or the reduced lactose whey shall be subjected to pasteurization techniques or its equivalent before use in food.

(c) Reduced lactose whey may be used in food in accordance with good manufacturing practice as indicated in § 184.1(b)(1).

(d) The percent of lactose present on a dry product basis, i.e., "reduced lactose

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or examined at the office of the Federal Register, 1100 L St. NW, Washington, DC 20406.

whey (——% lactose)", shall be declared on the label of the package sold to food manufacturers. The percent of lactose may be declared in 5-percent increments, expressed as a multiple of 5, not greater than the actual percentage of lactose in the product, or as a actual percentage provided that an analysis of the product on which the actual percentage is based is supplied to the food manufacturer.

(e) The presence of reduced lactose whey in a finished food product shall be listed as "reduced lactose whey."

4. By adding new § 184.1979b, to read as follows:

§ 184.1979b Reduced minerals whey.

(a) Reduced minerals whey is the substance obtained by the removal of a portion of the minerals from whey. The dry product shall not contain more than 7 percent ash. Reduced minerals whey is produced by physical separation techniques such as precipitation, filtration, or dialysis. As with whey, reduced minerals whey can be used as a fluid, concentrate, or a dry product form. The acidity of reduced minerals whey may be adjusted by the additional of safe and suitable pH-adjusting ingredients.

(b) The reduced minerals whey meets the following specifications:

(1) The analysis of reduced minerals whey, on a dry product basis, based on analytical methods in the referenced sections of "Official Methods of Analysis of the Association of Official Analytical Chemists, 13th ed. (1980),[2] which is incorporated by reference, is:

(i) Protein content, 10 to 24 percent—as determined by the methods prescribed in section 16.036 (liquid sample), entitled "Total Nitrogen—Official Final Action" under the heading "Total Solids," or in section 16.193 (dry sample), entitled "Kjeldahl Method" under the heading "Protein—Official Final Action."

(ii) Fat content, 1 to 4 percent—as determined by the methods prescribed in section 16.059 (liquid sample), "Reese-Gottlieb Method [Reference Method] (11)—Official Final Action" under the heading "Fat," or in section 16.199 (dry sample), entitled "Fat in Dried Milk (45)—Official Final Action."

(iii) Ash content, maximum 7 percent—as determined by the methods prescribed in section 16.035 (liquid sample), entitled "Ash (5)—Official Final Action" under the heading "Total Solids," or in section 16.196 (dry sample), entitled "Ash—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(iv) Lactose content, maximum 85 percent—as determined by the methods prescribed in section 16.057 (liquid sample), entitled "Gravimetric Method—Official Final Action" under the heading "Lactose," or in section 31.061 (dry sample), entitled "Lane-Eynon General Volumetric Method" under the heading "Lactose—Chemical Methods—Official Final Action."

(v) Moisture content, 1 to 6 percent—as determined by the methods prescribed in section 16.192, entitled "Moisture (41)—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(vi) Solids content, variable—as determined by the methods prescribed in section 16.032, entitled "Method I—Official Final Action" under the heading "Total Solid."

(vii) Titratable Acidity, variable—as determined by the methods prescribed in section 16.023, entitled "Acidity (2)—Official Final Action" under the heading "Milk," or by an equivalent potentiometric method.

(2) Limits of impurities are: Heavy metals (as lead). Not more than 10 parts per million (0.001 percent), as determined by the method described in the Food Chemicals Codex, 3d ed. (1981), pp. 512–513,[1] which is incorporated by reference.

(3) The reduced minerals whey shall be derived from milk that has been pasteurized, or the reduced minerals whey shall be subjected to pasteurization techniques or its equivalent before use in food.

(c) The reduced minerals whey may be used in food in accordance with good manufacturing practice as indicated in § 184.1(b)(1).

(d) The percent of of minerals present on a dry product basis, i.e., "reduced minerals whey (——% minerals)", shall be declared on the label of the package sold to food manufacturers. The percent of minerals may be declared in 2-percent increments expressed as a multiple of 2, not greater than the actual percentage of minerals in the product, or as an actual percentage provided that an analysis of the product on which the actual percentage is based is supplied to the food manufacturer.

(e) The presence of reduced minerals whey in a finished food product shall be listed as "reduced minerals whey".

5. By adding new § 184.1979c, to read as follows:

§ 184.1979c Whey protein concentrate.

(a) Whey protein concentrate is the substance obtained by the removal of sufficient nonprotein constituents from whey so that the finished dry product contains not less than 25 percent protein. Whey protein concentrate is produced by physical separation techniques such as precipitation, filtration, or dialysis. As with whey, whey protein concentrate can be used as a fluid, concentrate, or dry product form. The acidity of whey protein concentrate may be adjusted by the addition of safe and suitable pH-adjusting ingredients.

(b) The whey protein concentrate meets the following specifications:

(1) The analysis of whey protein concentrate, on a dry product basis, based on analytical methods in the referenced sections of "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th ed. (1980),[2] which is incorporated by reference, is:

(i) Protein content, minimum 25 percent—as determined by the methods prescribed in section 16.036 (liquid sample), entitled "Total Nitrogen—Officials Final Action" under the heading "Total Solids," or in section 16.193 (dry sample), entitled "Kjeldahl Method" under the heading "Protein—Official Final Action."

(ii) Fat content, 1 to 10 percent—as determined by the methods prescribed in section 16.059 (liquid sample), "Reese-Gottlieb Method [Reference Method] (11)—Official Final Action" under the heading "Fat," or in section 16.199 (dry sample), entitled "Fat in Dried Milk (45)—Official Final Action."

(iii) Ash content, 2 to 15 percent—as determined by the methods prescribed in section 16.035 (liquid sample), entitled "Ash (5)—Official Final Action" under the heading "Total Solids," or in section 16.196 (dry sample), entitled "Ash—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(iv) Lactose content, maximum 60 percent—as determined by the methods prescribed in section 16.057 (liquid sample), entitled "Gravimetric Method—Official Final Action" under the heading "Lactose," or in section 31.061 (dry sample), entitled "Lane-Eynon General Volumetric Method" under the heading "Lactose—Chemical Methods—Official Final Action."

(v) Moisture content, 1 to 6 percent—as determined by the methods prescribed in section 16.192, entitled "Moisture (41)—Official Final Action" under the heading "Dried Milk, Nonfat Dry Milk, and Malted Milk."

(vi) Solids content, variable—as determined by the methods prescribed in section 16.032, entitled "Method I—Official Final Action" under the heading "Total Solids."

(vii) Titratable Acidity, variable—as determined by the methods prescribed in section 16.023, entitled "Acidity (2)—

Official Final Action" under the heading "Milk," or by an equivalent potentiometric method.

(2) Limits of impurities are:

Heavy metals (as lead). Not more than 10 parts per million (0.001 percent), as determined by the method described in the Food Chemicals Codex, 3d ed. (1981), pp. 512–513,[1] which is incorporated by reference.

(3) The whey protein concentrate shall be derived from milk that has been pasteurized, or the whey protein concentrate shall be subjected to pasteurization techniques or its equivalent before use in food.

(c) The whey protein concentrate may be used in food in accordance with good manufacturing practice as indicated in § 184.1(b)(1).

(d) The percent of protein present on a dry product basis, i.e., "whey protein concentrate (——% protein)", shall be declared on the label of the package sold to food manufacturers. The percent of protein may be declared in 5-percent increments, expressed as a multiple of 5, not greater than the actual percentage of protein in the product, or as an actual percentage provided that an analysis of the product on which the actual percentage is based is supplied to the food manufacturer.

(e) The presence of whey protein concentrate in a finished food product shall be listed as "whey protein concentrate".

Effective date. This regulation shall be effective on September 4, 1981. Compliance with the labeling provisions of this final regulation may begin immediately. Labeling of all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall comply.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: August 11, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference of Association of Official Analytical Chemists, 13 ed., approved by the Director of the Office of the Federal Register on August 18, 1981, and incorporation by reference of the Food Chemicals Codex, 3d ed., approved by the Director of the Office of the Federal Register on August 18, 1981.

[FR Doc. 81-25547 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 452

[Docket No. 81N-0226]

Antibiotic Drugs; Erythromycin Enteric-Coated Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new strength of erythromycin enteric-coated tablet. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective September 4, 1981; comments, notice of participation, and request for hearing by October 5, 1981; data, information, and analyses to justify a hearing by November 3, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (333 milligrams) of erythromycin enteric-coated tablet. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 452 is amended in § 452.110b by revising the second sentence in paragraph (a)(1) to read as follows:

§ 452.110b Erythromycin enteric-coated tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* * * * Each tablet contains 100, 250, or 333 milligrams of erythromycin. * * *

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register.**

However, interested persons may, on or before October 5, 1981, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before October 5, 1981, a written notice of participation and request for hearing, and (2) on or before November 3, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and

substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective September 4, 1981.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: August 27, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-25704 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Tablets

Correction

In FR Doc. 81-23512, appearing on page 41038, in the issue of Friday, August 14, 1981, make the following change:

On page 41038 in the fifth line from the top of the second column, change the 5 to 25.

BILLING CODE 1505-01-M

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Roxarsone Tablets

Correction

In FR Doc. 81-24191 appearing on page 42448 in the issue of Friday, August 21, 1981, first column, first paragraph of "SUPPLEMENTARY INFORMATION", the fifth line should read as follows: "1951, providing for use of roxarsone".

BILLING CODE 1505-01

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Acepromazine Maleate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for the safe and effective use of acepromazine maleate tablets for dogs as an aid in tranquilization and as a preanesthetic agent.

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., P.O. Box 338, Elwood, KS 66024, filed an NADA (117-532) providing for safe and effective oral use of a 10- and 25-milligram acepromazine maleate tablet as an aid in tranquilization and as a preanesthetic agent for dogs. This approval is supported by controlled clinical and nonclinical studies, safety studies, and reprints from scientific literature establishing safe and effective use of the drug. The NADA is approved and the regulations are amended to reflect the approval. In addition, the existing regulation is editorially revised to delete the chemical name for this drug and to reflect current format.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 520—ORAL DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by revising § 520.23 to read as follows:

§ 520.23 Acepromazine maleate tablets.

(a) *Specifications.* Each tablet contains 10 or 25 milligrams of acepromazine maleate.

(b) *Conditions of use.* See No. 000856 in § 510.600(c) of this chapter for use in dogs and cats as follows:

(1) *Indications for use.* It is used in dogs and cats as a tranquilizer.

(2) *Amount.* Dogs: 0.25 to 1.0 milligram per pound of body weight; Cats: 0.5 to 1.0 milligram per pound of body weight.

(3) *Limitations.* The drug is administered orally. Dosage may be repeated as required. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(c) *Conditions of use.* See No. 013983 in § 510.600(c) of this chapter for use in dogs as follows:

(1) *Indications for use.* It is used in dogs as an aid in tranquilization and as a preanesthetic agent.

(2) *Amount.* Dogs: 0.25 to 1.0 milligram per pound of body weight.

(3) *Limitations.* The drug is administered orally. Dosage may be repeated as required. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective September 4, 1981.

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

Dated: August 20, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-25543 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner (Federal Housing Administration)

24 CFR Part 201

[Docket No. R-81-934]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable finance charge on Title I property improvement, mobile home loans, combination and mobile home lot loans, and historic preservation loans. The change is necessitated by the high interest rates prevalent for such loans. This action by HUD is designed to bring the maximum financing charges into line with other competitive market rates and help assure an adequate supply of financing for such loans.

EFFECTIVE DATE: August 17, 1981.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202-755-6680).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum finance charge on mobile home loans has been raised from 18.00 percent to 19.00 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been raised from 17.50 percent to 18.50 percent. The maximum charge on property improvement and historic preservation loans has been raised to 19.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart A—Eligibility Requirements—Property Improvement Loans

1. Section 201.4(a) is revised to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 19.00 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

2. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 19.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

3. Section 201.1511(a), subparagraph (1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.*

* * * * *

(1) 18.50 percent per annum.

* * * * *

Subpart E—Eligibility Requirements—Historic Preservation Loans

4. Section 201.1625(a) is revised to read as follows:

§ 201.1625 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge, exclusive of fees and charges as provided by paragraph (b) of this section, which may be directly or indirectly paid to, or collected by the insured in connection with the loan transaction, shall not exceed a 19.00 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709-1; sec. 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3534(d))

Issued at Washington, D.C., August 25, 1981.

Philip D. Winn,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 81-25828 Filed 9-3-81; 8:45 am]

BILLING CODE 4210-01-M

---

24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, and 244

[Docket No. R-81-935]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable finance charge on insured home and project loan programs. This action by HUD is designed to bring the maximum financing charges into line with other competitive market rates and

help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: August 17, 1981.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been raised from 15.50 percent to 16.50 percent for level payment insured home mortgage programs (including operative builder home loan programs), and from 16.00 percent to 17.00 percent for graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been raised from 15.50 percent to 16.50 percent for permanent financing loans. The maximum interest rate for multifamily construction and for Title X land development loans has been increased from 19.00 percent to 20.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

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

Accordingly, Chapter II of Title 24 of the Code of Federal Regulations is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT [TITLE X]

Subpart A—Eligibility Requirements

4. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 20.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

5. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date of cost certification.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

6. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

Subpart C—Eligibility Requirements Individual Properties Released From Project Mortgage

7. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

8. Section 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date of cost certification.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

9. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in mortgages involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date of cost certification.

Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

10. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date of cost certification.

* * * * *

Subpart C—Eligibility Requirements—Supplemental Loans to Finance Purchase and Installation of Fire Safety Equipment

11. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 16.50 percent per annum with respect to loans insured on or after August 17, 1981.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

12. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

13. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

14. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent annum with respect to mortgages insured on or after August 17, 1981.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

15. Section 235.540(a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 16.50 percent per annum with respect to morgages insured on or after August 17, 1981.

* * * * *

PART 236—MORGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

16. Section 236.15(a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

17. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower with respect to loans insured on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal then outstanding.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

18. Section 242.33(a) is revised to read as follows:

§ 242.33 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal then outstanding.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES [TITLE XI]

Subpart A—Eligibility Requirements

19. Seciton 244.45(a) is revised to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 17, 1981, which rate shall not exceed:

(1) 16.50 percent per annum with respect to permanent financing;

(2) 20.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709-1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d).

Issued at Washington, D.C., August 25, 1981.

Philip D. Winn,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 81-25827 Filed 9-3-81; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1902-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) proposed approval on March 27, 1980 (45 FR 20431) of the portions of Indiana's plan submitted in response to these general requirements of the Clean Air Act, as amended: Section 121—Consultation, Section 110(a)(2)(K)—Permit Fees, Section 126—Interstate Pollution, Section 127—Public Notification, Section 128—State Boards and Section 110(a)(2)(F) (ii) and (iii)—Continuous Emission Monitoring.

Indiana made submittals in response to USEPA's Notice of Proposed Rulemaking on April 17, 1980, June 25, 1980, September 8, 1980, October 6, 1980, November 10, 1980, December 9, 1980, and December 31, 1980. One other comment was received. Based on its review of these submittals, USEPA approves the Consultation, Permit Fee, Interstate Pollution, Public Notification, State Boards and Continuous Monitoring Sections of the SIP.

EFFECTIVE DATE: This final rulemaking is effective on October 5, 1981.

ADDRESSES: Copies of the materials submitted by the State are available at:

U.S. Environmental Protection Agency, Air Programs Branch Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Office of the Federal Register, 1100 L Street, SW., Room 8401, Washington, D.C.

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Gerald S. Kellman, Air Planning Section, Air Programs Branch Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6070.

SUPPLEMENTARY INFORMATION: The following general requirements are contained in the Clean Air Act Amendments of 1977: section 121—consultation, section 110(a)(2)(K)—Permit Fees, Section 126—Interstate Pollution, Section 127—Public Notification, Section 128—State Boards, and Section 110(a)(2)(F) (ii) and (iii)—Continuous Emission Monitoring. Indiana responded to these requirements on June 26, 1979. USEPA proposed rulemaking on the State's response on March 27, 1980 (45 FR 20431). The State responded to this proposal on April 17, 1980; June 25, 1980, September 8, 1980, October 5, 1980, November 10, 1980, December 9, 1980, and December 31, 1980. One other comment was received. USEPA's response to any comments, a summary of USEPA's proposed action, and USEPA's final determination follows.

Section 121—Consultation

As part of its June 26, 1979 submittal, Indiana included a copy of a local agency agreement which provided for a process of consultation with local air agencies. On March 27, 1980, USEPA proposed to approve Indiana's process of consultation providing Indiana forwarded to USEPA copies of the executed agreements and that the agreements meet the requirements of 40 CFR 51.245 (44 FR 351-81) which states that the SIP "shall provide for an opportunity for Federal, State, and local involvement in such consultation process no later than December 18, 1979."

In a June 25, 1980 submittal, Indiana responded to USEPA's notice of proposed rulemaking and stated that "all local agency agreements will be made to conform with the Clean Air Act, as amended, Section 121 requirements." On August 6, 1980, the State submitted a description of agreements it had made with local planning commissions. On November 10, 1980 and December 31, 1980, the State submitted documentation of agreements it had made with local air pollution control agencies.

USEPA has reviewed these submittals and they contain the necessary commitments for consultation.

Final Determination

Approval of Indiana's process of consultation.

Section 110(a)(2)(K)—Permit Fees

In the March 27, 1980 **Federal Register**, USEPA proposed to approve Indiana's system of permit fees.

Final Determination

Approval of Indiana's System of Permit Fees.

Section 126—Interstate Pollution

In the March 27, 1980, **Federal Register**, USEPA proposed to approve Indiana's conformity with Section 126(a)(2) which requires the State to identify existing major sources which may significantly contribute to levels of air pollution in neighboring states. Also in the March 27, 1980, notice, USEPA proposed to approve Indiana's conformity with Section 126(a)(1) providing the State developed procedures for identifying and giving written notice to nearby states of any proposed major stationary source which

may significantly contribute to levels of air pollution in excess of the National Ambient Air Quality Standards in those states. On December 9, 1980 Indiana submitted these procedures to USEPA. USEPA has reviewed the procedures and finds that they meet the requirements of the act.

Final Determination

USEPA approves Indiana's conformity with the act's requirements for notification of interstate pollution.

Section 127—Public Notification

In the March 27, 1980 **Federal Register**, USEPA proposed to approve Indiana's procedure for notification of the public of instances or areas in which any national primary air quality standard is exceeded, for advising the public of hazards associated with such pollution, and for informing the public of measures which can be taken to prevent such standards from being exceeded, providing Indiana submits a procedure for notifying the public of air pollution alerts, warnings, and emergencies. On December 9, 1980, Indiana submitted these procedures. This submittal also contained a list of publications and events which the State uses to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. USEPA has reviewed the procedures and finds that they meet the requirements of the act.

Final Determination

USEPA approves Indiana's public notification procedures.

Section 128—State Boards

Section 128 of the Clean Air Act requires that any boards which approve permits or enforcement orders under the Clean Air Act contain a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act and that members of any such board adequately disclose any potential conflicts of interest.

In the March 27, 1980, **Federal Register**, EPA proposed to approve Indiana's procedure for certifying that a majority of the Indiana Air Pollution Control Board members represent the public interest providing that all disclosures of present board members are submitted. In the April 17, 1980 submittal, the State provided USEPA with previously unsubmitted disclosures of board members. USEPA has reviewed this submittal, and it contains adequate documentation of compliance with Section 128.

Final Determination

Approval of Indiana's State Board Requirement portion of the SIP

Section 110(a)(2)(F) (ii) and (iii)—Continuous Emission Monitoring

In the March 27, 1980, **Federal Register**, USEPA proposed to approve Indiana's procedures for continuous emissions monitoring providing the state corrected two typographical errors contained in Indiana Regulation APC 8, which contains these procedures. On October 6, 1980, Indiana submitted a revised version of APC 8 (325 IAC 3) in which the two errors were corrected.

USEPA received one comment on Section 110(a)(2)(F). The comment noted that Indiana's continuous emission monitoring requirement only applies to four types of sources. The comment asserts that Section 110(a)(2)(F) requires monitoring for all sources.

USEPA notes that 110(A)(2) does not specify the sources for which monitoring is required, but addresses stationary sources in general. The lack of specificity in this section of the Act enables the Administrator to determine which sources should be required to monitor their emissions continuously. The Administrator made this determination by promulgating 40 CFR 51.19(e) and Appendix P. The State's regulation meets these requirements.

Final Determination

USEPA approves Indiana's procedures for continuous emission monitoring and 325 IAC 3.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation will not be "major" as defined by Executive Order 12291, because this action only approves State actions.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

(Secs. 110, 121, 126, 127, and 128 of the Clean Air Act, as amended)

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

Dated: August 28, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P—Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph 22.

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(22) On June 26, 1979, Indiana made submittals pertaining to Section 121 Consultation, Section 110(a)(2)(K)—Permit Fees, Section 126—Interstate Pollution, Section 127—Public Notification, Section 128—State Boards and Section 110(a)(2)(F) (ii) and (iii)—Continuous Emission Monitoring Additional commitments were secured on April 17, 1980, June 25, 1980, August 1, 1980, November 10, 1980, December 9, 1980, and December 31, 1980. A revised version of Indiana's continuous emission monitoring regulation (325 IAC 3) was submitted on October 6, 1980.

* * * * *

[FR Doc. 81-25052 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 52

[A-3-FRL 1913-6]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves a revision of the Maryland State Implementation Plan (SIP) originating from an amendment to the Maryland Air Quality Control Regulations, pertaining to the control of sulfur dioxide emmissions. The amendment establishes a new emission standard for sulfur oxides from existing solid fuel-fired, cyclone type fuel-burning equipment having an actual heat input in excess of 1,000 million BTU per hour. This revision is approvable

because it meets the applicable requirements of the Clean Air Act.

EFFECTIVE DATE: October 5, 1981.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Media & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Harold A. Frankford.

Air Management Administration, State of Maryland, O'Conor Office Building, 201 W. Preston Street, Baltimore, MD 21201, ATTN: George P. Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215–597–8176.

SUPPLEMENTARY INFORMATION: On February 20, 1980, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III, amendments to its air pollution control regulations and requested that it be reviewed and processed as a revision of the Maryland State Implementation Plan (SIP). The amendments, applicable to the Baltimore and Washington areas only, consist of changes to section .04D(4) of COMAR 10.18.04 and 10.18.05 and establish a new emission standard for sulfur oxides from existing solid fuel-fired, cyclone type fuel-burning equipment having an actual heat input in excess of 1,000 million BTU per hour. The existing SIP regulation limits the sulfur content of solid fuel used in all fuel-burning equipment to 1% or less by weight. The amendments establish an allowable sulfur oxide emission standard for cyclone type fuel-burning equipment of 3.5 pounds per million BTU actual heat input which is equivalent to appproximately 2.3% sulfur by weight. While the definition of "solid fuel" is not explicitly defined in Maryland's regulations, both EPA and Maryland interpret "solid fuel" to include "coal."

The Baltimore Gas and Electric Company, C.P. Crane Generating Station, Units 1 and 2 (200 Megawatts each) in Baltimore County, wishes to convert from 1% sulfur oil to coal under the new regulation. The Crane Station is currently under a Department of Energy prohibition order and is a prime candidate to receive a notice of effectiveness. The Crane Station cyclone furnaces require a low ash fusion temperature coal which is normally a high sulfur coal (greater than 2% sulfur by weight). The best information indicates that a 1% sulfur coal with the necessary ash fusion temperature characteristic is unavailable. Therefore, Maryland has submitted this revision to their SIP to allow B.G. and E. Crane Station to burn higher sulfur coal.

The State of Maryland is requiring B.G. and E. Crane Station to use Continuous Emission Monitoring (CEM) under COMAR 10.18.01.06B(1). This regulation requires specific installations to install, use, and maintain monitoring equipment or employ other methods as requested by the Department. Maryland's Technical Memorandum 77–01 details the requirements for CEM and reporting methods for the information obtained through the use of such equipment. During times of sustained outages of the CEM equipment, Maryland plans to institute a detailed coal sampling program to determine, on as close to real time basis as possible, the maximum sulfur dioxide contribution made at this facility. Maryland will enforce the SO_2 emission limitation on a 24-hour basis.

The State submitted a modeling study for total suspended particulates (TSP) and sulfur dioxide (SO_2). The modeling study was based on the assumption that the Baltimore Gas and Electric Company, C.P. Crane Generating Station, Units 1 and 2, is the only facility being converted to coal under this revision. The State of Maryland has certified by letter dated October 1, 1980, that the Crane Units 1 and 2 constitute the only fuel-burning equipment of cylcone type in State Area III (Metropolitan Baltimore AQCR) and IV (Washington Metropolitan AQCR), making this assumption true. The model employed is the standard single-source EPA CRSTER model, using five years of National Weather Service meteorological data. Other sources in the area were also modeled to determine background concentrations.

The study predicted ground level concentrations of SO_2 at 100%, 75% and 50% load conditions using urban coefficients to simulate an urban type of terrain. A refined grid (spacing of 0.2 Km) was run using the two years of highest indicated SO_2 ground level concentrations. For comparison purposes, rural coefficients were also used. Only minor differences were indicated in the results.

The study concluded that the emission standard set forth in (Section .04D(4) of COMAR 10.18.04 and 10.18.05) will not cause violations of either the primary or secondary NAAQS for SO_2. The modeling study further concluded that the PSD increments will not be violated.

The State submitted proof that a public hearing was held on November 28, 1979 in Baltimore, Maryland in accordance with the notice and public hearing requirements of 40 CFR Section 51.4 and all relevant State procedural requirements.

Notice of Proposed Rulemaking

On February 10, 1981, 46 FR 11678, EPA acknowledged receipt of the amendments, proposed them as a revision of the Maryland State Implementation Plan (SIP), and provided for a 30-day public comment period ending March 12, 1981. During the public comment period no comments were received.

EPA Evaluation

A review of Maryland's modeling analysis by EPA indicates that SO_2 emissions from the plant will not cause or contribute to violations of the primary or secondary NAAQS for SO_2, and that the revision fully complies with EPA's current policy regarding SO_2 emissions relaxations. EPA also concludes that the PSD increments will not be exceeded, although 82% of the 24-hour increment and 73% of the 3-hour increment would be consumed by the Crane Station Units 1 and 2.

Currently, the Baltimore area is in violation of both primary and secondary National Ambient Air Quality Standards for TSP. Therefore, the PSD increment is not applicable for TSP. The nonattainment plan for this area which EPA approved in part on August 12, 1980 45 FR 53461, contains regulations for only fugitive TSP emissions and does not require any additional TSP compliance plans for power plants beyond current SIP requirements. EPA has concluded, from the modeling demonstration, that the increased TSP levels due to the conversion of Crane Station Units 1 and 2 will be less than the de minimus impact for TSP ($1\mu g/m^3$ annual, $5\mu g/m^3$ 24-hour) and therefore will not interfere with the plans for TSP attainment of this area.

In view of the above evaluation, EPA approves the amendments to section .04D(4) of COMAR 10.18.04 and 10.18.05 as a revision of the Maryland SIP, effective October 5, 1981. Accordingly, 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) is revised to incorporate both the regulatory amendment and the October 1, 1980 letter from the State of Maryland to EPA certifying the B.G.&E. Crane generating Station to be the only source affected by

this regulatory change, into the approved Maryland SIP.

In EPA's review of the revision, EPA makes note of the fact that the term "solid fuel" is not defined. The State of Maryland may wish to define this term in a future SIP revision to clarify its regulations.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that the SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action constitutes a SIP approval under sections 110 and 172 of the Clean Air Act. This action only approves State actions. It imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401-642)

Dated: August 28, 1981.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register, on July 1, 1981.

In Part 52, Title 40 of the Code of Federal Regulations, Subpart V, § 52.1070(c) is amended by adding subparagraphs (46) and (47) to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Subpart V—Maryland

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(46) Amendments to section .04D(4) of COMAR 10.18.04 and COMAR 10.18.05 establishing a revised sulfur oxides emissions limitation for all existing solid fuel-fired, cyclone type fuel burning equipment having an actual heat input in excess of 1,000 million Btu/hour; submitted on February 20, 1980 by the Governor.

(47) October 1, 1980 letter from George P. Ferreri, Maryland Office of Environmental Programs to James E. Sydnor, EPA, certifying that the Baltimore Gas & Electric Company's C. P. Crane Generating Station is the sole facility to which COMAR 10.18.04.04D(4) and 10.18.05.04D(4) would apply.

[FR Doc. 81-25966 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5983

Arizona; Public Land Order No. 5868; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct a typographical error in a land description contained in Public Land Order No. 5868 of May 15, 1981 (46 FR 28164, May 26, 1981).

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

A description of lands in Public Land Order No. 5868 of May 15, 1981, in FR Doc. 81-15542 appearing at page 28164 in the issue of Tuesday, May 26, 1981, in the second column following sec. 31, N½., the penultimate line reads "T. 6 S., R. 18 W.,". It should be corrected to read "T. 7 S., R. 18 W.,".

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 27, 1981.

[FR Doc. 81-23904 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Ninth Revised Service Order No. 1474]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Ninth Revised Service Order No. 1474.

SUMMARY: Service Order No. 1474 authorized various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Since that time, certain carriers have been granted permanent authority by the Commission. This Ninth Revision deletes those carriers from the original service order. Service Order No. 1474 is further revised by extending its expiration date until October 30, 1981.

EFFECTIVE DATE: 11:59 p.m., August 31, 1981.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840.

SUPPLEMENTARY INFORMATION:

Decided: August 28, 1981.

Pursuant to section 122 of the Rock Island Transition and Employee Assistance Act, Public Law 96-254, the Commission is authorizing various railroads to provide interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and to use such tracks and facilities as are necessary for that operation.

Appendix A of Eighth Revised Service Order No. 1474 is revised by deleting, in this order, the following authorities.

Item 3. Consolidated Rail Corporation at Momence, Illinois.

Item 4. Pend Oreille Valley Railroad, Inc., (POV): in the area of New Port and Metaline Falls, Washington.

Item 5. St. Maries River Railroad Company (SMRR): in the area of Bovill, St. Maries, and Plummer, Idaho.

Appendix A is renumbered accordingly.

The deletion of the temporary authorities occurring in this order resulted from recent Commission decisions which granted permanent authority to those carriers; and in the case of item 3 of the previous order, the track was conveyed to the industry. Carriers recently granted permanent authority are reminded to comply with all conditions stipulated in the order to

assure that the decision remains in force. All items are renumbered accordingly.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendix be authorized to conduct operations, also identified in the attachment, using MILW tracks and/or facilities; 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,

§ 1033.1474 Service Order 1474.

(a) *Various Railroads authorized to use Tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, in order to provide interim service over the MILW.

(b) The Trustee shall permit the affected carriers to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW lines, interim operators shall be responsible for preserving the value of the lines, associated with each interim operation, to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

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

(j) *Rate applicable.* Inasmuch as this operation by interim operators over tracks previously operated by the MILW 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 MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators 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 by and 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.

(l) *Employees.* In providing service under this order interim operators, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., August 31, 1981.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 30, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and Section 122, Public Law 96–254.

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, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and William F. Sibbald, Jr. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A

MILW Lines Authorized To Be Operated by Interim Operators

1. Illinois Central Gulf Railroad Company (ICG):

A. In Sioux City, Iowa, from Pearl Street west approximately 1.5 miles to Tri-View Industrial area, and from Court Street to Virginia Street.

2. Seattle and North Coast Railroad Company (SNC):

A. Between Port Angeles and Port Townsend, Washington, including Pier 27 and associated track in Seattle, Washington.

3. Burlington Northern Inc. (BN):

A. In Sioux City, Iowa, between milepost 509.77 and milepost 512.62, a distance of approximately 2.85 miles.

4. Racoon River Railroad, Inc. (RAC):

A. Between Lohrville and Rockwell City, Iowa, a distance of approximately 11.3 miles.

*5. Des Moines Union Railway Company (DMU):

A. Between Des Moines (milepost 0) and Clive (milepost 8.5) Iowa; and between Clive (milepost 0) and Grimes, Iowa (milepost 7), a total distance of 15.5 miles.

*Renumbered.

[FR Doc. 81-25826 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 172
Friday, September 4, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220, and 226

National School Lunch, School Breakfast, and Child Care Food Programs; Meal Pattern Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would (1) simplify administration of the meal requirements in the National School Lunch Program, School Breakfast Program, and Child Care Food Program; (2) reduce meal pattern quantity requirements; and (3) change some meal crediting requirements, i.e., how food items are counted towards meeting meal requirements. The Department is proposing this rule to reduce federal regulation and program costs. The Department believes that this rule would simplify local administration, reduce local costs, and provide local programs with more flexibility.

DATE: Comments must be postmarked on or before October 5, 1981.

ADDRESSES: Comments may be mailed to Cynthia Ford, Branch Chief, Room 556, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Washington, D.C. 20250. Comments may be delivered to the above address during regular business hours (8:30 am to 5:00 pm, Monday through Friday). Comments received may also be inspected at Room 556 between 8:30 am and 5:00 pm.

FOR FURTHER INFORMATION CONTACT: Virginia Wilkening, 202–447–9067.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and has been classified major. We anticipate that the proposal will have an impact on the economy of $100 million. This proposed rule will substantially increase costs by providing States, School Food Authorities, and institutions with more flexibility in administering the child nutrition programs. The proposal will not have adverse effects on competition, employment, investment, innovation, or on the ability of U.S. enterprises to compete with foreign enterprises. Because the Omnibus Reconciliation Act of 1981 requires that these cost savings to become effective 90 days after enactment and because the Department needs to provide for public comment, it is impracticable for the Department to follow the procedures set forth in Executive Order 12291. As provided by section 8(a) of that order, the Director of OMB has been notified of this conflict. An impact analysis will be available when the final rule is published.

The proposal has also been reviewed with regard to the requirements of Pub. L. 96–354. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis will address the issues required in Section 603 of Pub. L. 96–354, the Regulatory Flexibility Act.

This regulation does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

Introduction

The U.S. Department of Agriculture (USDA) is responsible for the administration of the child nutrition programs. These include the National School Lunch Program, the School Breakfast Program, the Child Care and Summer Food programs, and the Special Milk Program for Children. USDA issues regulations for the operation of the child nutrition programs, and State agencies that operate the programs in conformance with the regulations earn Federal payments based on the number of meals served to eligible children by schools and institutions. Similarly, schools and institutions receive payments from their State agencies to cover the cost of their program food service.

Current Basis of Meal Pattern Policy

The National School Lunch Act and the Child Nutrition Act of 1966 require that the Secretary of Agriculture set minimal nutritional requirements for meals served in the child nutrition programs, but give the Secretary broad discretion to determine those requirements. Meal pattern requirements have been established for specific types and amounts of food to be served in each of the programs that the Department administers. The meal patterns are minimal standards, based on the most current knowledge about the nutritional needs of program participants and their food consumption habits and preferences. The patterns are designed to allow for sufficient flexibility so that the meals planned are appealing as well as nutritionally sound. USDA also provides guidance materials related to menu planning and to the nutritional composition and cost of foods that are available for use in the programs.

The National School Lunch Program, the largest of the child nutrition programs, was first authorized by the National School Lunch Act in 1946. At that time, the school lunch pattern was established, with a goal of providing approximately one-third of the Recommended Dietary Allowances (RDA) of nutritions for 10- to 12-year old children as established by the Food and Nutrition Board, National Research Council, National Academy of Sciences. School lunch regulations do not require that each lunch provide thirty-three percent of the nutrients that children need, but it is expected that on average, over a period of time, the meals will provide approximately one-third of the RDA. This figure has traditionally been used as a goal in menu planning.

Periodically lunch pattern requirements are reviewed and revised to reflect new knowledge about the nutritional aspects of the program. Over the years the Department has recognized that the nutritional needs of children differ. A nutritional goal based on a standard for one age group of children may not be appropriate for children of all ages. Also, there is reason to recognize the existence of both overnutrition and undernutrition as health problems in this country. Not only is it important for children to consume all of the nutrients that they need, but also, to avoid obesity, it is important that they not consume more calories than they need.

The Department revised the school lunch pattern in 1980 to bring it into conformance with revisions of the RDA.

At that time efforts were made to increase the variety of foods that could be served a part of the lunches. Also, to accommodate children's individual preferences and to help reduce plate waste in schools, the Department allowed schools to vary serving sizes.

In this proposed rule the Department is considering further changes in the meal patterns in response to provisions of the Omnibus Reconciliation Act of 1981 that require the Department to "review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to nutritional requirements for meals) for the purpose of determining ways in which cost savings might be accomplished at the local level * * *." (sec. 818, Pub. L. 97–35).

Trends in Program Operating Characteristics, 1970–1980

Prior to 1980 the child nutrition programs experienced a period of rapid growth and, consequently, a growth in Federal expenditures. As a result, the programs are estimated to cost the Federal government approximately $4.5 billion in fiscal year 1981 compared to a total program cost of approximately $700 million in fiscal year 1970. The approximately 22 percent annual growth rate was the result of increases in program expenditures emanating from a number of specific statutory requirements which include:

Provision of specified amounts of cash and commodity subsidies for all meals served regardless of the family income of the participant;

Provision of specified amounts of special cash assistance for meals served free or at a reduced price to eligible children;

Semi-annual adjustments in payment rates to reflect increases in food prices;

Encouragement of all eligible schools and institutions to offer programs; and

Encouragement of participation by every child with access to a program.

Recent Legislation

In the Omnibus Reconciliation Act of 1980, Pub. L. 96–499, the first cost saving measures were enacted to curtail spending in the child nutrition programs. Reductions of approximately eight percent were made in the fiscal year 1981 program budget primarily through small decreases in subsidy and eligibility levels. In the Omnibus Reconciliation Act of 1981, Pub. L. 97–35, the changes initiated in the 1980 Act were continued and further reductions in program spending were enacted. As a result, the fiscal year 1982 program budget will decrease by approximately 25 percent.

While the changes made in the 1981 Act do not significantly alter the form of the benefits provided nor the nature of the programs, they do change the distribution of program benefits to direct federal spending more towards meals served to children from low income families. There are two major changes. First the income eligibility standards have been changed to limit the number of children who may receive free and reduced price meals to those in families with the lowest family income. Second, the subsidy levels provided for food service operations have been reduced. The reductions are made primarily by lowering, but not eliminating, Federal payments for meals served to children who pay the full price or receive reduced price meals. The subsidy levels for free meals are changed slightly. The following table indicates the changes in subsidies that will be in effect for the 1981–1982 school year.

Comparison of per Meal Subsidy Levels

	Previous law (cents)	Current law (cents)	Differences (cents)
Lunch/supper (cash and commodities): [1]			
Paid	32.50	21.50	−11.00 (34)
Reduced price	104.00	80.25	−23.75 (23)
Free	124.00	120.25	−3.75 (3)
Schools in School Food Authorities that served 60% or more of their lunches in the second preceding school year free or at a reduced price receive 2 cents more.			
Breakfast: [1]			
Regular:			
Paid	16.25	8.25	−8.00 (49)
Reduced price	46.75	28.50	−16.25 (39)
Free	57.00	57.00	0 (0)
Severe need:			
Paid	16.25	8.25	−8.00 (49)
Reduced price	63.50	38.50	−25.00 (39)
Free	66.50	66.50	0 (0)
Supplements: [1]			
Paid	5.50	2.75	−2.75 (50)
Reduced price	22.25	15.00	−7.25 (33)
Free	30.50	30.00	−.25 (26)

[1] Figures in parentheses in percent.

Effects of Legislation on Local Food Service

The changes of the 1981 legislation in subsidy levels and eligibility occur at a time when food service costs are rising due to inflationary pressures in the economy. The joint effects of subsidy reductions and inflation will necessarily cause increases in the prices charged for meals served to children from middle and higher income families. Since paid meals have traditionally accounted for approximately 55 percent of participation in the school lunch program, local program operators have expressed concern that sharp rises in prices charged may substantially reduce participation and potentially jeopardize the continued operation of programs.

This concern is addressed in Pub. L. 97–35. Section 818 of the law provides that "The Secretary shall review regulations promulgated under section 10 of the Child Nutrition Act of 1966 (including regulations pertaining to the nutritional requirements for meals) for the purposes of determining ways in which cost savings might be accomplished at the local level in the operation of meal programs under the National School Lunch Act and the Child Nutrition Act of 1966 without impairing the nutritional value of such meals * * *."

The Statement of Managers provides further guidance concerning the nature of this requirement by indicating that the intent of the section is that "* * * before the Secretary changes current meal pattern requirements, he shall exhaust all alternatives for lowering local program costs. Further, any proposed change must have a demonstrated local fiscal impact and a sound nutritional basis. The conferees understand that the phrase (without impairing the nutritional value of meals) should not be interpreted as requiring one-third RDA for every meal provided."

Alternative Cost Saving Measures

Prior to the passage of Pub. L. 97–35 the Department formed task forces of Regional, State, and local food service personnel and members of public interest groups, to identify areas in which to reduce costs directly, or indirectly by reducing Federal regulation. The task forces covered five subjects: State Plan, Meal Patterns, Administrative Requirements, Review and Oversight, and Financial Management/Accountability.

There are at least two broad program areas in which the Department might be able to reduce local costs without affecting the meal patterns: (a) general administration, including counting and claiming meals and cost accounting; and (b) eligibility determinations. The following program changes to reduce local costs are currently under consideration by the Department or are required by the Omnibus Reconciliation Act of 1981.

(a) *Administration.* 1. *Eliminate the requirement to report cost records, except for the Special Milk Program and for severe need breakfast reimbursement.* The major initiative, besides reductions in meal pattern requirements, that the Department can implement to help reduce local costs in the short term is already required by Section 819 and other sections of the Omnibus Reconciliation Act of 1981. These provisions eliminate the Federal

requirements to maintain records of incurred costs sufficient to justify reimbursement. The current requirement to include cost as a factor in determining subsidy levels to local agencies has been a major source of recordkeeping burdens. Schools and institutions needed to keep detailed records of direct and indirect costs by program to justify reimbursement. The elimination of this requirement should provide direct savings.

2. *Reduce reporting requirements.* Besides eliminating the requirement to report costs, the Department is reducing other costly paperwork burdens. It is eliminating the requirement that schools report estimates of the number of children eligible for free or reduced price meals in October and March. In addition, by eliminating the State Plan requirement, the Department is freeing schools and institutions from reporting any supporting data that States needed to develop their Plans. These changes also are required by the Omnibus Reconciliation Act of 1981, section 812.

(b) *Eligibility determinations.* 1. *Remove hardship provisions.* The Department is eliminating the special hardship deductions that families can claim for specific unexpectedly high costs. From 1973 until the passage of the Omnibus Reconciliation Act of 1980, the Department allowed a family to deduct from its stated income the cost of certain "hardships" that the family could not reasonably anticipate or control. The hardship deductions were: (a) unusually high medical expenses; (b) shelter costs in excess of 30 percent of income; (c) special education expenses due to the mental or physical condition of a child; and (d) disaster or casualty losses. School administrators then had to take these special hardship deductions into account in determining a child's eligibility for free or reduced price meals or free milk. This was often a complicated and time consuming exercise that could lead to mistakes. Most parental appeals of eligibility determinations were based on a contested application of the hardship deductions. The Omnibus Reconciliation Act of 1981 made permanent the elimination of hardship deductions first instituted on a temporary basis by Pub. L. 96-499.

2. *Simplify midyear announcements.* The Department is planning to simplify the procedures that schools must follow if the Income Eligibility Guidelines change during the school year, by eliminating the rquirement that School Food Authorities send home to parents new letters and new applications at that time. This simplification will save schools the cost of time and materials in printing and distributing these papers.

Meal patterns

Cost savings from changes in administration and eligibility determinations are very difficult to quantify at the national level due to the many variations among local programs. None of these changes by themselves result in substantial cost savings, though taken together they provide important relief in administrative burdens to local operators. There are at least three related areas in which meal pattern changes can be made to realize cost savings: (a) administration, (b) crediting requirements, and (c) quantity requirements. The task force on meal patterns addressed all three areas. The changes proposed in this regulation are largely the task force's recommendations.

(a) *Simplify administration.* The task force recommended two administrative simplifications: (1) reduce the number of age/grade patterns and allow State and local programs to determine the ages or grades to be served each pattern within broad guidelines and (2) make meal patterns consistent among programs. This proposal adopts both suggestions. The task force also recommended that the Department intensify its technical assistance efforts. Finally, the task force suggested that the Department redefine "reimbursable meal" to emphasize the production of bulk quantities.

(1) *Number of age/grade groups.* The proposal reduces the maximum number of age/grade patterns in school lunch regulations from five to three and divides them into broad categories—"preschool", "elementary", and "secondary"—rather than definite age/grade groups. States or with State approval, local programs may define "preschool", "elementary", and "secondary". States and local programs are to make their determinations based on the ages of the children served, not the nature of the institution. It is not the Department's intention, for example, that an older child who attends a day care facility licensed as a "preschool" facility after school should be served the preschool pattern.

(2) *Consistency.* This proposal also makes meal pattern portion sizes consistent for the school lunch, school breakfast, and child care programs. It updates the school infant patterns to reflect the child care program infant patterns. The school infant patterns are served primarily in residential child care institutions.

(3) *Technical Assistance.* The task force also recommended strongly that the Department concentrate on improved technical assistance. The task force felt that many savings are possible through improved administrative efficiency in such areas as meal planning, pricing, and procurement and the use of labor and equipment. Within the next year, the Department will issue the results of its food service cost studies. These studies examine factors that affect meal production efficiency. For example, they examine the relative importance of processed versus unprocessed food purchases in terms of the available supply and cost of labor and equipment. These results and others should help local School Food Authorities plan for long term meal production cost savings.

(4) *Reimbursable meal.* The Department is also developing a separate rulemaking proposal describing a Federal meal monitoring system for the school programs. That proposal would require schools to monitor the production of bulk food quantities rather than individual quantities served per plate. We anticipate that this system should relieve schools of the need to overproduce to insure that individual items meet the minimum quantity requirements when served. However, States would be allowed to develop their own monitoring system which could include per plate quantity monitoring, if they choose not to adopt the Federal system.

The changes proposed today lay the groundwork for the meal monitoring system, by stressing quantities as prepared and allowing schools in the school lunch program to reduce the amount of food prepared based on the amount of food they expect the students to decline under offer versus serve. This proposal would also allow schools and institutions, if not inconsistent with State policy, to vary portion sizes as served in response to individual children's desires.

(b) Simplify crediting requirements.

(1) *Meat and Meat Alternates.*—Several foods are proposed to be added to the list of allowable meat alternates as a result of public requests and in an effort to increase flexibility in menu planning.

—*Nuts and seeds*—Peanut butter has been a creditable meat alternate since the inception of the school lunch and child care programs. Peanuts have not been credited as a meat/meat alternate for two reasons: (1) peanuts have been considered a snack food, not a main dish item as are the other acceptable meat/meat alternates, and (2) allowing peanuts as a meat alternate might conflict with nutrition education

principles and good menu planning practices by allowing meals to be served that might not provide a traditionally recognized entree.

This proposed regulation would allow schools and institutions to credit peanuts, as well as all other nuts and seeds and their butters, recognizing the nutritional comparability of these items. To maintain a traditionally recognized entree and to maximize acceptability of the meal, it is recommended that nuts and seeds fulfill no more than one-half of the meat/meat alternate requirement.

—*Yogurt*—The Department has received many requests from program participants and the food industry to allow yogurt as a "creditable" food as a substitute either for the milk or the meat/meat alternate component. The Meal Pattern Task Force recommended that yogurt, plain or flavored, be credited as a milk alternate on an ounce-for-ounce basis. Inasmuch as yogurt is often consumed as an entree, the Department is proposing that at the option of the School Food Authority or institution yogurt be allowed to meet either the milk or meat alternate requirement. While yogurt is not as good a source of iron as most meat/meat alternates, it is equivalent to cheese. Allowing yogurt to count as a milk alternate or meat alternate (1) would permit local operations to be responsive to the desires of the community and local food preferences; (2) may increase participation; (3) may increase variety in the meal pattern, especially addressing the desires of secondary students; and (4) may help satisfy children's appetites.

—*Tofu*—Tofu is a soybean curd which has the general color and shape of a light cheese. Three basic types of tofu are manufactured in this country. Silken or soft tofu (kinugoshi) is the softest, most liquid type of tofu available; it contains a minimum of 5 percent protein. Regular tofu (Japanese style) is of medium firmness with an 8 percent minimum protein content. This type of tofu is the most readily available on a commercial scale. The third type of tofu is firm tofu (doufu). This type is the firmest of the three and has a minimum of 11 percent protein. Over the past few years, the Department has received a number of requests that tofu be credited toward fulfilling the meat/meat alternate requirement in child nutrition programs. Although schools and institutions may serve tofu, currently they cannot count tofu toward meeting meal pattern requirements.

Because tofu contains adequate protein, is relatively inexpensive, and is a versatile meat alternate, the Department is proposing to allow the use of tofu as a meat alternate. To determine the required serving size for tofu, the protein level of regular tofu (the form most readily available) was compared to the protein level of one-half cup cooked dry beans and peas. The comparable amount of tofu is three ounces (weight) or one-half cup (volume).

—*Equivalencies of cooked dry beans or peas and eggs*—In final rules published in May 16, 1980, meat alternate equivalencies for cooked dry beans or peas and eggs were increased to provide more nutritional comparability between the various meat/meat alternates. The preamble of the regulation also discussed a similar change in the equivalency for cottage cheese. The implementation date was July 1, 1980; however, because of anticipated administrative and operational hardships for schools using commercially prepared products, schools were allowed to apply to State agencies for exemptions until July 1, 1981, so that food suppliers could alter their manufacturing practices in accordance with the new equivalencies. On July 17, 1981, as a result of requests from schools and food manufacturers for a further delay in implementation, the Department delayed full implementation until July 1, 1982.

Because of the administrative difficulties schools and food manufacturers have encountered in trying to comply with the new meat alternate equivalencies, the proposed regulations would return to the former equivalencies; i.e., one-half cup of cooked dry beans or peas, or one large egg will be considered equal to a two ounce portion of cooked lean meat. As no difficulties were reported with cottage cheese, it is proposed that cottage cheese remain as stated in the *Food Buying Guide for School Food Service* (PA-1247); i.e., one-half cup is equivalent to two ounces of cooked lean meat.

—*Main dish and one other item*—An additional change within the meats or meat alternate component involves the current requirement that the meat or meat alternate must be in the main dish or the main dish and one other menu item. This requirement was made to prevent the planning of a menu which would have small amounts of meat/meat alternates spread throughout the meal without a recognizable entree.

To increase flexibility at the local level and to achieve food cost reductions, the Department is proposing to delete this requirement. This would allow all meats or meat alternates to be counted toward the total meat or meat alternate requirement regardless of how many menu items are represented. It is expected that good menu planning practices will insure that a substantial amount of the requirment will be served in the main dish resulting in a recognizable entree.

—*One food item contributing toward the meat or meat alternate and another component*—Currently, cooked dry beans or peas may be counted as a meat alternate or as a vegetable, but not as both in the same meal; and enriched macaroni with fortified protein may count as a meat alternate or as a bread alternate but not as both in the same meal. Similarly, it is proposed that yogurt count as a meat alternate or as a milk alternate but not as both in the same meal. It is the Department's intent that these items may be planned to contribute to two components if they are prepared in sufficient quantities. As an example, a one-half cup of cooked dry beans may contribute ¼ cup toward the meat or meat alternate requirement and ¼ cup toward the vegetable or fruit requirement; however, the ½ cup cannot be counted to meet ½ cup of the meat or meat alternate *and* ½ cup of the vegetable or fruit requirement. This proposal amends the regulations to clarify current policy.

(2) *Vegetables and Fruits.*

—*Two or more servings*—Since July 1958, schools have been required to serve two or more servings of vegetables or fruits or both to fulfill the vegetable or fruit requirement. This provision was required to insure that a variety of foods would be offered, and a variety of nutrients would be available. This proposal would modify that requirement to allow two or more vegetables or fruits to be served, separately or combined. This modification continues to recognize the need for a variety of foods, yet allows greater flexibility in menu planning when serving several different vegetables or fruits in one menu item, for example chef salads.

—*Concentrates*—An additional proposed change in crediting policy would allow vegetable and fruit concentrates to be credited on a single-strength reconstituted basis rather than on the basis of the actual volume as served. For example, one tablespoon of tomato paste could be credited as ¼ cup single-strength tomato juice. Previously, it was only credited as 1 tablespoon, the volume as served. This change eliminates the so-called "water" requirement. While not specified in regulations, this policy will be addressed in program aids.

—*Service of vegetable or fruit juice*—Current school lunch program regulations and lunch/supper child care

program regulations specify that full-strength vegetable or fruit juice may be used to meet not more than one-half of the total vegetable/fruit requirement. This restriction is being removed to simplify Federal regulations and to be consistent with breakfast regulations which do not restrict the amount of full-strength juice served. Good menu planning practiced would suggest that juice not be used to fulfill a major part of the vegetable/fruit requirement.

(3) *Bread and Bread Alternates.*

—*Inconsistencies in crediting*—There are currently several inconsistencies among child nutrition programs in crediting specific bread items. Not all food items which contain enriched or whole-grain cereal, flour, or meal are allowed as creditable bread items in all child nutrition programs. For a food item to be credited as bread in the school lunch program, it must serve the cutomary function of bread in a meal as an accompaniment to, or an integral part of, the main dish. Accordingly, dessert items such as cakes, cookies, and dessert pie crusts have not been credited as bread.

In the child care program, the same policy regarding the customary function of bread in a meal applies to the bread/bread alternate component for lunch and supper. However cookies have been authorized as a bread alternate in supplements (snacks) because of their popularity and customary role as a snack food. Items such as doughnuts and sweet rolls when made with enriched or whole-grain flour can be credited as bread in the school breakfast program and in the child care program.

To remove these inconsistencies, it is being proposed that (1) any food containing enriched or whole-grain flour or meal; or enriched, whole-grain, or fortified cereal as its primary ingredient be allowed to contribute ot the bread/bread alternate requirement, and (2) all foods on the list of acceptable bread/bread alternates in Appendix A be allowed to contribute toward the bread/bread alternate requirement in any child nutrition program. It is expected that good menu planning practices will insure that food items credited as bread will generally be served as an accompaniment to, or an integral part of, the main dish.

—*Appendix A*—The requirement for the bread/bread alternate food item specifies that bread/bread alternate products must be enriched or whole-grain or, in the case of cereals, must be enriched, whole-grain, or fortified. The required amount of food item is defined as a serving. Further detailed listings of acceptable bread/bread alternate and servings sizes have not been specified in detail in the program regulations, but provided as guidance in program aids such as *The Food Guide for School Food Service (PA-1247).* These regulations propose adding the list of acceptable bread/bread alternates to Appendix A of the regulations. This would make compliance and monitoring easier.

(4) *Milk.*

—*Requirement for a form of lowfat milk*—In revisions to school lunch pattern requirements in 1979, regulations were amended to require that schools offer unflavored fluid lowfat milk, skim milk, or buttermilk in an effort to decrease the level of fat and sugar in school lunches. Other types of milk could be offered as choices. This provision was never extended to the school breakfast or the child care programs.

Since implementation of this requirement, the Department has learned that some schools have completely discontinued offering whole milk as a beverage choice. In addition, this requirement has resulted in administrative and financial difficulties. Some schools providing a choice of more than one type of milk have experienced storage and inventory problems, increased service time, and added recordkeeping burdens.

This proposed regulation would delete the lowfat milk requirement and place the decision as to the type(s) of milk to be served at the local level, thereby increasing flexibility and simplifying program administration.

—*Yogurt*—As discussed above, it is proposed that yogurt be allowed to meet the milk or the meat/meat alternate requirement.

(5) *Other Changes in Crediting Requirements.* FNS crediting policies have been developed for a national program. The Department realizes there are many foods that have not been addressed specifically as well as new foods that are continually being developed.

The use of these foods can be desirable in increasing menu variety, exposing children to new foods, and promoting nutrition education. It is therefore proposed that while general guidance on crediting specific forms of food will be provided by FNS, the State agencies will have discretionary authority regarding the crediting of specific food items or categories as long as the States' decisions are not inconsistent with FNS regulations and are reported to the appropriate FNS Regional Office; for example, a State could not credit as a bread a food that is not enriched or whole-grain, or milk that is not fluid milk, but could credit a condiment such as pickle relish as a vegetable.

This policy should result in increased flexibility and improved responsiveness to the needs of individual child nutrition programs. It should also allow for earlier implementation of possible cost savings.

(c) *Reduce quantity requirements.*

We anticipate that the proposed changes discussed under the preceding sections entitled "Simplify administration" and "Simplify crediting requirements" will generate some local cost savings. However, the amount of savings will vary greatly among schools and institutions, and we do not anticipate that the savings generated will be significant. Therefore, to carry out the requirements of section 818 of the Omnibus Reconciliation Act of 1981 to significantly reduce local costs, we have determined it is necessary to reduce the quantity requirements of the meal patterns.

A reduction in the quantity of food that is required to be served can result in immediate cost savings on the local level. To develop new meal patterns the Department relied on what is known about current school and child care operations. Quantity reductions were made to reduce plate waste or to reduce the cost of the meals.

Although the Department is proposing to decrease the quantity of food served, the nutritional balance of the meals will be preserved. Schools will still be required to offer five food items from each of the four food components. Therefore, meals will continue to provide a wide variety of nutrients. The food items of the pattern provided continue to be excellent nutrient sources.

The Department has developed nutrient profiles for the proposed lunch patterns. The average nutrient composition for each meal component of the lunch pattern was determined using information about what was served in 1,200 lunches in 60 schools. These data were used to interpret the nutritional content of the proposed lunch pattern. Nutrients provided by the proposed lunch pattern were then compared to the average RDA of 1- to 4-year olds, 5- to 11-year olds, and 12- to 17-year olds as appropriate (Table 1). The calculations demonstrate that lunches served under the proposed lunch pattern can continue to make a significant contribution to children's known dietary needs.

It is important to recognize that the proposed requirements are *minimum* requirements. Larger portions may be served. In fact, a demonstration project sponsored by the Department during the 1978–1979 school year indicates that on

the average, schools served more food than was required. The project was conducted to assess the feasibility and implications of changes in the school lunch pattern that were proposed at that time. Baseline data on the average serving sizes of menu items served in 382 schools in 43 states were collected for a one week period. At that time the required minimums serving size for meat and meat alternate items was 2 ounces. The data show that the average serving size in secondary schools then was 2.44 ounces. In elementary schools the average actual serving size was found to be 2.19 ounces. The required minimum serving size for bread and bread alternate items per meal was one slice, but the data show that secondary schools were actually serving an average of 8.5 servings per week of bread or bread alternates. Therefore, the Department expects that many of the meals served in the school lunch program will contribute greater amounts of nutrients than the values reported in Table 1 indicate. Those nutrient values are for portion sizes that are specified in these proposed regulations.

BILLING CODE 3410-30-M

TABLE 1. NUTRITIONAL VALUE OF NEW LUNCH/SUPPER PATTERNS

	Preschool		Elementary		Secondary	
	Amount	% RDA (age 1-4)	Amount	% RDA (age 5-11)	Amount	% RDA (age 12-17)
Energy (Calories)	251	18	364	17	440	18
Protein (gm)	13.2	53	19.7	56	24.9	52
Vitamin A (I.U.)	1438	68	1545	47	1653	37
Vitamin C (mg)	15.4	34	15.9	35	16.5	30
Niacin (mg NE)	5.0	50	7.2	51	8.8	55
Riboflavin (mg)	.34	38	.50	38	.63	45
Thiamin (mg)	.19	24	.29	26	.33	28
Vitamin B_6 (mg)*	.26	26	.34	23	.41	22
Vitamin B_{12} (mcg)*	.86	41	1.28	46	1.71	57
Calcium (mg)	200	25	296	35	380	32
Iron (mg)	2.0	14	2.6	24	2.9	16
Magnesium (mg)*	42.7	28	59.0	30	72.2	24

* Estimates based on limited food composition data.

BILLING CODE 3410-30-C

These proposed changes reflect discussions that the Department has had with the General Accounting Office (GAO). After a recent review of the school lunch program, GAO said that one option open to the Secretary would be dropping an RDA goal if it cannot be achieved within acceptable limits of plate waste, cost, and student participation. The following tables 2–6 present the proposed quantity reductions.

BILLING CODE 3410-30-M

TABLE 2. NATIONAL SCHOOL LUNCH PROGRAM

	Preschool		Elementary		Secondary	
	Current	Proposed	Current	Proposed	Current	Proposed
MEAT OR MEAT ALTERNATE	1, 1 1/2 oz (or equivalent)	1 oz (or equivalent)	1 1/2, 2 oz (or equivalent)	1 1/2 oz (or equivalent)	2 oz (or equivalent)	2 oz (or equivalent)
VEGETABLE/FRUIT	1/2 cup	1/2 cup	1/2, 3/4 cup	1/2 cup	3/4 cup	1/2 cup
BREAD OR BREAD ALTERNATE	5, 8 servings per week	1/2 serving per day	8 servings per week	1 serving per day	8 servings per week	1 serving per day
MILK	6 oz	4 oz	8 oz	6 oz	8 oz	8 oz

TABLE 3. SCHOOL BREAKFAST PROGRAM

	Preschool		Elementary		Secondary	
	Current	Proposed	Current	Proposed	Current	Proposed
VEGETABLE/FRUIT	1/4, 1/2 cup	1/2 cup	1/2 cup	1/2 cup	1/2 cup	1/2 cup
BREAD OR BREAD ALTERNATE	1/2 serving per day	1/2 serving per day	1 serving per day	1 serving per day	1 serving per day	1 serving per day
MILK	4, 6 oz	4 oz	8 oz	6 oz	8 oz	8 oz

TABLE 4. CHILD CARE FOOD PROGRAM - LUNCH/SUPPER

	Preschool		Elementary	
	Current	Proposed	Current	Proposed
MEAT OR MEAT ALTERNATE	1, 1 1/2 oz (or equivalent)	1 oz (or equivalent)	2 oz (or equivalent)	1 1/2 oz (or equivalent)
VEGETABLE/FRUIT	1/4, 1/2 cup	1/2 cup	3/4 cup	1/2 cup
BREAD OR BREAD ALTERNATE	1/2 serving per day	1/2 serving per day	1 serving per day	1 serving per day
MILK	4, 6 oz	4 oz	8 oz	6 oz

TABLE 5. CHILD CARE FOOD PROGRAM - BREAKFAST

	Preschool		Elementary	
	Current	Proposed	Current	Proposed
VEGETABLE/FRUIT	1/4, 1/2 cup	1/2 cup	1/2 cup	1/2 cup
BREAD OR BREAD ALTERNATE	1/2 serving per day	1/2 serving per day	1 serving per day	1 serving per day
MILK	4, 6 oz	4 oz	8 oz	6 oz

TABLE 6. CHILD CARE FOOD PROGRAM - SUPPLEMENT

	Preschool		Elementary	
	Current	Proposed	Current	Proposed
MEAT OR MEAT ALTERNATE	1/2 oz (or equivalent)	1/2 oz (or equivalent)	1 oz (or equivalent)	1 oz (or equivalent)
VEGETABLE/FRUIT	1/2 cup	1/4 cup	3/4 cup	1/2 cup
BREAD OR BREAD ALTERNATE	1/2 serving per day	1/2 serving per day	1/2 serving per day	1/2 serving per day
MILK	4 oz	4 oz	8 oz	6 oz

BILLING CODE 3410-30-C

Timeframes and Note to Commentors

Schools and institutions are already evaluating their food service programs with regard to the impacts of Pub. L. 97–35 and potential price changes. The Omnibus Reconciliation Act of 1981 instructs the Department to publish cost saving regulations within 90 days of the law's enactment. Since the law was enacted August 13, the Department needs to publish interim regulations by November 13. For these reasons it is impracticable for the Department to allow an extended comment period. Therefore, only a 30 day comment period will be provided. The Department will provide a longer comment period on the interim rule to allow schools and institutions to submit comments based on operational experience.

Commentors should concentrate on the provisions concerning administrative simplifications, quantity requirements, and crediting requirements. The Department is publishing the other provisions of the meal pattern sections only for the reader's convenience and to reorganize these sections. The extension of offer versus serve to all grades in the school lunch program is required by the Omnibus Reconciliation Act of 1981 and is being implemented in another final regulation. The infant pattern in the school programs has been changed to be consistent with the child care program. The Department is not planning changes in the infant pattern at this time; however, comments received will be kept on file.

The Department recognizes that there may be other cost saving alternatives that it has not considered. Therefore, commentors are encouraged to submit cost saving alternatives to changing meal pattern requirements during the comment period.

Accordingly, Parts 210, 220, and 226 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In Part 210, § 210.10 is proposed to be revised to read as follows:

§ 210.10 Requirements for lunches.

(a) *General food item requirements.* Lunches shall be prepared to contain five food items: fluid milk or yogurt, a meat or meat alternate, 2 or more vegetables or fruits or both, and a whole-grain or enriched bread or bread alternate. Lunches for infants shall be prepared according to the infant pattern in paragraph (g) of this section.

(b) *Offer versus serve.* Each school shall offer its students all five food items of the lunch. However, senior high students and, when approved by the local School Food Authority, students in any grade level, may decline one or two of the five food items. The student's decision to decline food items shall not affect the charge for the lunch. State and local educational agencies shall define "senior high."

(c) *Quantity requirements.* Lunches shall be prepared based on at least the minimum quantities provided in the following School Lunch Pattern Table and the infant pattern in paragraph (g) of this Section; however, if not inconsistent with State policy, an individual portion served may vary in size according to the student's preference. The total quantity of each food item prepared may be reduced by the total amount of that food item all students are expected to decline under the offer versus serve option. The size of a serving of bread alternates and the conditions governing the use of cheese alternate products and enriched macaroni products with fortified protein are in Appendix A to this Part. If a School Food Authority implements the offer versus serve option in its elementary schools, its lunches, at least for grades 4 and above, shall be prepared to contain 2 ounces of meat or an equivalent amount of meat alternate as provided in the Table for secondary schools.

(d) *Service to preschool children.* With State approval, schools that serve preschool children may divide the service of the specified quantities and food items into two distinct service periods. Schools may divide the quantities or food items between these service periods in any combination.

(e) *Emergency conditions.* If emergency conditions keep a school from being able to serve fluid milk or yogurt, the State agency, or FNSRO where applicable, may approve the service of lunches without fluid milk or yogurt during the emergency period. In the event of a natural disaster FNS may temporarily allow schools to serve lunches for reimbursement that do not meet the requirements of this section.

(f) *Lunches without milk.* If a school cannot secure fluid milk or yogurt on a continuing basis, it may still serve lunches for reimbursement. In these schools the State agency, or FNSRO where applicable, may approve the service of lunches without fluid milk or yogurt if the school uses an equivalent amount of canned, whole dry, or nonfat dry milk in lunch preparation.

(g) *Infant pattern.* Lunches for infants shall be prepared to contain the following food items and quantities. Schools may serve these food items and quantities over a span of time consistent with the infant's eating habits. Schools should introduce solid foods to children age 4 months and older on a gradual basis with the intent of ensuring their nutritional well-being.

(1) *Age 0 to 4 months*—four to six fluid ounces of infant formula.

(2) *Age 4 to 8 months*—six to eight fluid ounces of infant formula; one to two tablespoons of infant cereal; one to two tablespoons of fruit or vegetable of appropriate consistency or a combination of both; zero to one tablespoon of meat, fish, poultry or egg yolk or zero to one-half ounce (weight) of cheese or zero to one ounce (weight or volume) of cottage cheese or cheese food or cheese spread or appropriate consistency.

(3) *Age 8 months to 1 year*—six to eight fluid ounces of infant formula, or six to eight fluid ounces whole fluid milk and zero to three fluid ounces of full-strength fruit juice; three to four tablespoons of fruit or vegetable of appropriate consistency or infant cereal or combinations of these foods; one to four tablespoons of meat, fish, poultry, or egg yolk or one-half to two ounces (weight) of cheese or one to four ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(h) *Substitutions for individual children.* A school may substitute an alternate food for any of the five food items of the lunch if supported by a statement from a recognized medical authority which indicates that the child cannot eat the food item because of a medical or special dietary need. The statement must specify an alternate food or foods.

(i) *Variations for specific schools.* FNS may approve variations in the food items of the lunch on an experimental or on a continuing basis in any school where there is evidence that the variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(j) *Variations for specific States.* In American Samoa, Puerto Rico, and the Virgin Islands, schools may serve a starchy vegetable, such as yams, plantains, or sweet potatoes, to meet the bread/bread alternate requirement. Schools in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands may serve lunches which meet the meal pattern specified in these State agencies' written agreements required under § 210.3 in place of the meal pattern of this section.

BILLING CODE 3410-30-M

SCHOOL LUNCH PATTERN TABLE

		Preschool	Elementary[1]	Secondary
Meat or Meat Alternate	Cooked lean meat, poultry or fish	1 oz.	1 1/2 oz.	2 oz.
	Cheese	1 oz.	1 1/2 oz.	2 oz.
	Egg, large	1/2	3/4	1
	Cooked dry beans or peas	1/4 cup	3/8 cup	1/2 cup
	Tofu	1/4 cup	3/8 cup	1/2 cup
	Nuts/seeds, nut/seed butters	1 oz.	1 1/2 oz.	2 oz.
	Yogurt, plain or flavored	2 Tbsp.	3 Tbsp.	4 Tbsp.
	or an equivalent quantity of any of combination of the above	4 oz.	6 oz.	8 oz.
Vegetables or fruits	Two or more served separately or combined	1/2 cup	1/2 cup	1/2 cup
Bread or Bread Alternate[2]	Bread	1/2 serving	1 serving	1 serving
	Biscuits, rolls, muffins, etc..	1/2 serving	1 serving	1 serving
	Cold dry cereal[3]	1/3 cup or 1/2 oz.	3/4 cup or 1 oz.	3/4 cup or 1 oz.
	Cooked cereal, cereal grains, pasta, or noodle products or an equivalent quantity of any combination of the above	1/4 cup	1/2 cup	1/2 cup
Milk	Fluid Milk	4 oz.	6 oz.	8 oz.
	Yogurt, plain or flavored	4 oz.	6 oz.	8 oz.

[1] If a School Food Authority implements offer versus serve in its elementary schools, lunches, at least for grades 4 and above, shall be prepared to contain 2 ounces of meat or an equivalent amount of meat alternate.

[2] Bread, biscuits, pasta, or noodle products, and cereal grains shall be whole-grain or enriched; cereal shall be whole-grain, enriched, or fortified.

[3] Either volume (cup) or weight (oz.), whichever is less.

BILLING CODE 3410-30-C

PART 220: SCHOOL BREAKFAST PROGRAM

2. In Part 220, § 220.8 is proposed to be revised as follows:

§ 220.8 Requirements for breakfast.

(a) *General food item requirements.* Except as provided in Appendix A, breakfasts shall contain three food items: fluid milk or yogurt, one or more vegetable or fruits, and a whole-grain or enriched bread or bread alternate. Schools are encouraged to serve meat or meat alternates as part of the breakfast as often as possible. Breakfasts for infants shall be prepared according to the infant pattern in paragraph (e) of this section.

(b) *Quantity requirements.* Except as provided in Appendix A to this Part, breakfasts shall be prepared based on at least the minimum quantities provided in the following School Breakfast Pattern Table and the infant pattern in paragraph (e) of this section; however, if not inconsistent with State policy, an individual portion served may vary in size according to the student's preference. The size of a serving of bread and bread alternates are in Appendix A to this Part.

(c) *Emergency conditions.* If emergency conditions keep a school from being able to serve fluid milk or yogurt, the State agency, or FNSRO where applicable may approve the service of breakfasts without fluid milk or yogurt during the emergency period. In the event of a natural disaster FNS may temporarily allow schools to serve breakfasts for reimbursement that do not meet the requirements of this section.

(d) *Breakfasts without milk.* If a school cannot secure fluid milk or yogurt on a continuing basis, it may still serve breakfasts for reimbursement. In these schools the State agency, or FNSRO where applicable, may approve the service of breakfasts without fluid milk or yogurt if the school uses an equivalent amount of canned, whole dry, or nonfat dry milk in breakfast preparation.

(e) *Infant pattern.* Breakfasts for infants shall be prepared to contain the following food items and quantities. Schools may serve these food items and quantities over a span of time consistent with the infant's eating habits. Schools should introduce solid foods to children age 4 months and older on a gradual basis with the intent of ensuring their nutritional well-being.

(1) *Age 0 to 4 months*—four to six fluid ounces of infant formula.

(2) *Age 4 to 8 months*—six to eight fluid ounces of infant formula; one to three tablespoons of infant cereal.

(3) *Age 8 months to 1 year*—six to eight fluid ounces of infant formula, or six to eight fluid ounces whole fluid milk and zero to three fluid ounces of full-strength fruit juice; two to four tablespoons of infant cereal.

(f) *Substitutions for individual children.* A school may substitute an alternate food for any of the three food items of the breakfast if supported by a statement from a recognized medical authority which indicates that the child cannot eat the food item because of a medical or special dietary need. The statement must specify an alternate food or foods.

(g) *Variations for specific schools.* FNS may approve variations in the food items of the breakfast on an experimental or on a continuing basis in any school where there is evidence that the variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(h) *Variations for specific States.* In American Samoa, Puerto Rico, and the Virgin Islands, schools may serve a starchy vegetable, such as yams, plantains, or sweet potatoes, to meet the bread/bread alternate requirement. Schools in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands may serve breakfasts which meet the meal pattern specified in these State agencies' written agreements required under § 220.3 in place of the meal pattern of this section.

BILLING CODE 3410-30-M

SCHOOL BREAKFAST PATTERN TABLE

		Preschool	Elementary	Secondary
Milk	Fluid, Milk	4 oz.	6 oz.	8 oz.
	Yogurt, plain or flavored	4 oz.	6 oz.	8 oz.
Vegetables or Fruits		1/2 cup	1/2 cup	1/2 cup
Bread or Bread Alternate[1]	Bread	1/2 serving	1 serving	1 serving
	Biscuits, rolls, muffins, etc.	1/2 serving	1 serving	1 serving
	Cold dry cereal[2]	1/3 cup or 1/2 oz	3/4 cup or 1 oz	3/4 cup or 1 oz
	Cooked cereal, cereal grains, pasta, or noodle products or an equivalent quantity of any combination of the above	1/4 cup	1/2 cup	1/2 cup

[1] Bread, biscuits, pasta or noodle products, and cereal grains shall be whole-grain or enriched; cereal shall be whole-grain, enriched, or fortified.

[2] Either volume (cup) or weight (oz.), whichever is less.

BILLING CODE 3410-30-C

PART 226—CHILD CARE FOOD PROGRAM

3. In Parts 226, paragraphs (a)–(i) of § 226.20 are proposed to be revised to read as follows:

§226.20 Requirements for meals.

(a) General food item requirements.—(1) *Meals for infants.* Meals for infants shall be prepared according to the infant pattern in paragraph (f) of this section.

(2) *Breakfast.* Breakfast shall contain three food items: fluid milk or yogurt, one or more fruits or vegetables, and a whole grain or enriched bread or bread alternate. Institutions and facilities are encouraged to serve meat or meat alternates as part of the breakfast as often as possible.

(3) *Lunch or Supper.* Lunches or suppers shall contain five food items: fuild milk or yogurt, a meat or meat alternate, 2 or more fruits or vegetables or both, and a whole-grain or enriched bread or bread alternate.

(4) *Supplements.* Supplements shall include at least two of the following four food items: fluid milk or yogurt, meat or meat alternate, one or more fruits or vegetables, and a whole-grain or enriched bread or bread alternate. An institution or facility shall not serve a fruit or vegetable juice when it serves milk as the only other supplemental food.

(b) *Quantity requirements.* Breakfasts, lunches, suppers, or supplements shall be prepared based on at least the minimum quantities provided in the appropriate table of this section, Child Care Breakfast Pattern, Child Care Lunch or Supper Pattern, or Child Care Supplement Pattern, and the infant pattern in paragraph (f) of this section; however, if not inconsistent with State policy, an individual portion served may vary in size according to the child's preference. The size of a serving of bread and bread alternates are in Appendix A to this Part.

(c) *Emergency conditions.* If emergency conditions keep an institution or facility from being able to serve fluid milk or yogurt, the State agency, or FNSRO where applicable, may approve the service of breakfasts, lunches or suppers without fluid milk or yogurt during the emergency period. In the event of a natural disaster FNS may temporarily allow institutions and facilities to serve meals for reimbursement that do not meet the requirements of this Section.

(d) *Meals without milk.* If an institution or facility cannot secure fluid milk or yogurt on a continuing basis, it may still serve breakfasts, lunches or suppers for reimbursement. In these institutions or facilities the State agency, or FNSRO where applicable, may approve the service of breakfasts, lunches, or suppers without fluid milk or yogurt if the institution or facility uses an equivalent amount of canned, whole dry, or nonfat dry milk in meal preparation.

(e) *Infant pattern.* Meals and supplements for infants shall be prepared to contain the following food items and quantities. Institutions and facilities may serve these food items and quantities over a span of time consistent with the infant's eating habits. Institutions and facilities should introduce solid foods to children age 4 months and older on a gradual basis with the intent of ensuring their nutritional well-being.

(1) *Age 0 to 4 months*

(i) Breakfast—four to six fluid ounces of infant formula.

(ii) Lunch or supper—four to six fluid ounces of infant formula.

(iii) Supplements—four to six fluid ounces of infant formula.

(2) *Age 4 to 8 months*

(i) Breakfast—six to eight fluid ounces of infant formula; one to three tablespoons of infant cereal.

(ii) Lunch or supper—six to eight fluid ounces of infant formula; one to two tablespoons of infant cereal; one to two tablespoons of fruit or vegetable of appropriate consistency or a combination of both; zero to one tablespoon of meat, fish, poultry or egg yolk or zero to one-half ounce (weight) of cheese or zero to one ounce (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(iii) Supplements—two to four fluid ounces of infant formula or full-strength fruit juice; zero to one-fourth slice of crusty bread or zero to two cracker type products made from whole-grain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

(3) *Age 8 Months to 1 year*

(i) Breakfast—six to eight fluid ounces of infant formula, or six to eight fluid ounces whole fluid milk and zero to three fluid ounces of full-strength fruit juice; two to four tablespoons infant cereal.

(ii) Lunch or supper—six to eight fluid ounces of infant formula, or six to eight fluid ounces whole fluid milk, and zero to three fluid ounces of full-strength fruit juice; three to four tablespoons of fruit or vegetable of appropriate consistency or infant cereal or combinations of these foods; one to four tablespoons of meat, fish, poultry, or egg yolk or one-half to two ounces (weight) of cheese or one to four ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(iii) Supplements—two to four fluid ounces of infant formula or whole fluid milk or full-strength fruit juice; zero to one-fourth slice of crusty bread or zero to two cracker type products made from wholegrain or enriched meal or flour that are suitable for an infant for use as a finger food when appropriate.

(f) *Substitutions for individual children.* An institution may substitute an alternate food for any of the food items of a meal if supported by a statement from a recognized medical authority that says that the child cannot eat the food item because of a medical or special dietary need. The statement must specify as alternate food or foods.

(g) *Variations for specific institutions.* FNS may approve variations in the food items of a meal on an experimental or on a continuing basis in any institution or facility where there is evidence that the variations are nutritionally sound and are necessary to ethnic, religious, economic, or physical needs.

(h) *Variations for specific States.* In American Samoa, Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marine Islands, institutions or facilities may serve a starchy vegetable, such as yams, plantains, or sweet potatoes, to meet the bread/bread alternate requirement. Institutions or facilities in the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands may also serve breakfasts, lunches, or suppers which meet the meal patterns specified in these State agencies' written agreements required under § 210.3 and § 220.3 of this chapter in place of the meal patterns of this section.

BILLING CODE 3410-30-M

CHILD CARE BREAKFAST PATTERN TABLE

		Preschool	Elementary[3]
Milk	Fluid, Milk Yogurt, plain or flavored	4 oz. 4 oz.	6 oz. 6 oz.
Vegetable and/or Fruit		1/2 cup	1/2 cup
Bread and Bread Alternate[1]	Bread Biscuits, rolls, muffins, etc. Cold dry cereal[2] Cooked cereal, cereal grains, pasta, or noodle products or an equivalent quantity of any combination of the above.	1/2 serving 1/2 serving 1/3 cup or 1/2 oz. 1/4 cup	1 serving 1 serving 3/4 cup or 1 oz. 1/2 cup

[1] Bread, biscuits, pasta or noodle products, and cereal grain shall be whole-grain or enriched; cereal shall be whole-grain, enriched, or fortified.

[2] Either volume (cup) or weight (oz.), whichever is less.

[3] If children older than age 12 are served, they should be served larger portions.

CHILD CARE LUNCH/SUPPER PATTERN TABLE

		Preschool	Elementary[3]
Meat or Meat Alternate	Cooked lean meat, poultry or fish	1 oz.	1 1/2 oz.
	Cheese	1 oz.	1 1/2 oz.
	Egg, large	1/2	3/4
	Cooked dry beans or peas	1/4 cup	3/8 cup
	Tofu	1/4 cup	3/8 cup
	Nuts/seeds,	1 oz.	1 1/2 oz.
	nut/seed butters	2 Tbsp.	3 Tbsp.
	Yogurt, plain or flavored	4 oz.	6 oz.
	or		
	an equivalent quantity of any combination of the above		
Vegetables or fruits	Two or more served separately or combined	1/2 cup	1/2 cup
Bread or Bread Alternate[1]	Bread	1/2 serving	1 serving
	Biscuits, rolls, muffins, etc.	1/2 serving	1 serving
	Cold dry cereal[2]	1/3 cup or 1/2 oz.	3/4 cup or 1 oz.
	Cooked cereal, cereal grains, pasta, or noodle products	1/4 cup	1/2 cup
	or		
	an equivalent quantity of any combination of the above.		
Milk	Fluid Milk	4 oz.	6 oz.
	Yogurt, plain or flavored	4 oz.	6 oz.

[1] Bread, biscuits, pasta or noodle products, and cereal grains shall be whole-grain or enriched; cereal shall be whole-grain, enriched, or fortified.

[2] Either volume (cup) or weight (oz.), whichever is less.

[3] If children older than 12 are served, they should be served larger portions.

SUPPLEMENT PATTERN TABLE

Select two out of the following four food items:		Preschool	Elementary*
Meat or Meat Alternate	Cooked lean meat, poultry, fish	1/2 oz.	1 oz.
	Cheese	1/2 oz.	1 oz.
	Egg, large	1/4	1/2
	Cooked dry beans or peas	1/8 cup	1/4 cup
	Tofu	1/8 cup	1/4 cup
	Nuts/seeds,	1/2 oz.	1 oz.
	nut/seed butters	1 Tbsp.	2 Tbsp.
	Yogurt, plain or flavored	2 oz.	4 oz.
	or		
	equivalent quantity of any combination of the above		
Vegetable or Fruit		1/4 cup	1/2 cup
Bread or Bread Alternate	Bread	1/2 serving	1 serving
	Biscuits, rolls, muffins, etc.	1/2 serving	1 serving
	Cold dry cereal	1/3 cup or 1/2 oz.	3/4 cup or 1 oz.
	Cooked cereal, cereal grains,		
	pasta, or noodle products	1/4 cup	1/2 cup
	or		
	an equivalent quantity of any combination of the above		
Milk	Fluid milk	4 oz.	6 oz.
	Yogurt, plain or flavored	4 oz.	6 oz.

*If children older than age 12 are served they should be served larger portions.

BILLING CODE 3410-30-C

4. In Parts 210, and 220 a new section is added to the end of Appendix A to read as follows:

Appendix A—Alternate Foods for Meals

* * * * *

Bread and Bread Alternates

To meet meal pattern requirements, a wide variety of foods listed below may contribute to the bread/bread alternate requirement. The lists are not intended to be all inclusive.

1. Schools may use a food as a bread/bread alternate if it is or contains whole-grain or enriched flour or meal, or whole-grain, enriched or fortified cereal as the primary ingredient by weight.

2. The serving size of a bread or bread alternate depends on its moisture content, nutrients, and grain content of approximately 18 grams. There are five groups of bread/bread alternates. The required grain content is the basis for determining the minimum weight of a serving for each group.

Group A—Breads and Rolls: 1 serving = 25 grams (0.9 oz): Bagels, Biscuits, Cobbler Crust, Corn Bread, Cracked Wheat Bread, English Muffins, French or Vienna Bread, "Fry Bread", Italian Bread, Muffins, Pie and Turnover crust, Pizza Crust, Pretzels (soft), Pumpernickel, Raisin Bread, Rolls, Rye Bread, Stuffing, Bread (weights apply to the bread in the stuffing), Syrian Bread (flat), Tortillas, White Bread, Whole Wheat Bread.

Group B—Crackers and Low Moisture Breads: 1 serving = 20 grams (0.7 oz): Bread Sticks (dry), Chips (corn, wheat, or other grains), Graham Crackers, Melba Toast, Pretzels (hard), Rye Wafers, Saltine Crackers, Soda Crackers, Taco Shells, Zwieback.

Group C—High Moisture Breads, Cookies, Cakes and Specialty Items: 1 serving = 35 grams (1.3 oz): Cakes, Cookies, Corn Dog Batter, Boston Brown Bread, Doughnuts, Dumplings, Hush Puppies, Pancakes, Sopaipillas, Spoonbread, Waffles, Fruit/Vegetable/Nut Breads (applesauce, carrot, banana, etc).

Group D—Pasta, Cereal Grains, and Cooked Cereals: 1 serving = ½ cup: Bulgur, Corn Grits, Corn Meal, Farina, Lasagna Noodles, Macaroni, Noodles (egg), Rice, Rolled Oats, Rolled Wheat, Spaghetti.

Group E—Dry Cereals: 1 serving = ¾ cup or 1 ounce, whichever is less: Dry cereals—puffed, flaked, shredded, etc., Granola.

5. In Part 226, the existing Appendix is deleted and a new Appendix A is added to read as follows:

Appendix A—Alternate Foods for Meals

Bread and Bread Alternates

To meet meal pattern requirements, a wide variety of foods listed below may contribute to the bread/bread alternate requirement. The lists are not intended to be all inclusive.

1. Schools may use a food as a bread/bread alternate if it is or contains whole-grain or enriched flour or meal, or whole-grain, enriched or fortified cereal as the primary ingredient by weight.

2. The serving size of a bread or bread alternate depends on its moisture content, nutrients, and grain content of approximately 18 grams. There are five groups of bread/bread alternates. The required grain content is the basis for determining the minimum weight of a serving for each group.

GroupA—Breads and Rolls: 1 Serving = 25 grams (0.9 oz): Bagels, Biscuits, Cobbler Crust, Corn Bread, Cracked Wheat Bread, English Muffins, French or Vienna Bread, "Fry Bread", Italian Bread, Muffins, Pie and Turnover Crust, Pizza Crust, Pretzels (soft), Pumpernickel, Raisin Bread, Rolls, Rye Bread, Stuffing, Bread (weights apply to the bread in the stuffing), Syrian Bread (flat), Tortillas, White Bread, Whole Wheat Bread.

Group B—Crackers and Low Moisture Breads: 1 serving = 20 grams (0.7 oz): Bread Sticks (dry); Chips (corn, wheat, or other grains), Graham Crackers, Melba Toast, Pretzels (hard), Rye Wafers, Saltine Crackers, Soda Crackers, Taco Shells, Zwieback.

Group C—High Moisture Breads, Cookies, Cakes and Specialty Items: 1 serving = 35 grams (1.3 oz): Cakes, Cookies, Corn Dog Batter, Boston Brown Bread, Doughnuts, Dumplings, Hush Puppies, Pancakes, Sopaipillas, Spoonbread, Waffles, Fruit/Vegetable/Nut Breads (applesauce, carrot, banana, etc.).

Group D—Pasta, Cereal Grains, and Cooked Cereals: 1 serving = ½ cup: Bulgur, Corn Grits, Corn Meal, Farina, Lasagna Noodles, Macaroni, Noodles (egg), Rice, Rolled Oats, Rolled Wheat, Spaghetti.

Group E—Dry Cereals: 1 serving = ¾ cup or 1 ounce, whichever is less: Dry cereals—puffed, flaked, shredded, etc., Granola.

(Section 19 of the National School Lunch Act; Section 10 of the Child Nutrition Act of 1966; the Omnibus Reconciliation Act of 1981 (Pub. L. 97-35))

Signed in Washington, D.C. on September 1, 1981.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 81-25955 Filed 9-3-81; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins Specification for Low-Loss Buried Distribution Wire, PE-44, Bulletin 345-42 and Specification for Plastic-Insulated Line Wire, PE-21, Bulletin 345-17

AGENCY: Rural Electrification Administration, Agriculture.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by withdrawing Bulletin 345-42, Specification for Low-Loss Buried Distribution Wire, PE-44, and Bulletin 345-17, Specification for Plastic-Insulated Line Wire, PE-21. A survey of REA borrowers and manufacturers indicated that these products are no longer being produced or used in rural telephony. Withdrawal of these specifications will, therefore, have no impact on the private sector and will enable the government to save printing and handling costs associated with the documents.

DATE: Public comments must be received by REA no later than Noember 3, 1981.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3827. The Draft Regulatory Impact Analyses describing the options considered in developing this proposed rule and the impact of implementing each option are available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A by withdrawing Bulletin 345-42, Specification for Low-Loss Buried Distribution Wire, PE-44, and Bulletin 345-17, Specification for Plastic-Insulated Line Wire, PE-21. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major." A Regulatory Flexibility Analysis is not required, and an OMB Circular A-95 review is not applicable to this action.

A survey of borrowers and manufacturers indicated that neither of these products was currently being produced by manufacturers or in use on the systems of REA borrowers. As other existing materials are filling the borrowers' needs, it was felt that withdrawal of the specifications was best for all concerned.

Maintaining existing specifications was considered, however, as material is not manufactured or used in accordance with these documents so that this would be a useless proliferation of paperwork. Revising the documents to force manufacturers to develop innovative and useful products was also considered. Insofar as borrowers' needs are being met with existing products, and the marketplace will force the

evolution of new products, this option was also rejected.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

REA, in its effort to assure the best, most cost-effective telecommunications for rural America, proposes to withdraw PE–44 and PE–21 as these materials are no longer used in the systems of REA borrowers. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: August 27, 1981.

Jack Van Mark,

Acting Administrator.

[FR Doc. 81-25641 Filed 9-3-81; 8:45 am]

BILLING CODE 3410-15-M

Agricultural Marketing Service [1]

Food Safety and Quality Service

7 CFR Part 2852

United States Standards for Grades of Lemon Juice [2]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. Standards for Grades of Canned Lemon Juice by incorporating into it the current grading standards for concentrated lemon juice for manufacturing and adding new grading standards for lemon juice from concentrate. All three products are subject to the newly established Food and Drug Administration (FDA) standards of identity and fill or container for lemon juice. This proposed rule would make the U.S. Department of Agriculture (USDA) grading standards consistent with FDA's standards of identity and fill of container and would promote orderly and efficient marketing.

DATE: Comments must be received on or before May 31, 1982.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6193.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this proposed rule is not major. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because this reflects current marketing practices.

Canned lemon juice is the unfermented juice extracted from sound mature lemon fruit. The juice may have been concentrated and later reconstituted with water and/or lemon juice. Concentrated lemon juice for manufacturing is the unfermented concentrated juice obtained from sound mature lemon fruit. However, FDA published new standards of identity and fill of container regulations on February 5, 1980 (45 FR 7784), which became effective July 1, 1981. Both "lemon juice" (7 CFR 2852.5481–2852. 5492) and "concentrated lemon juice for manufacturing" (7 CFR 2852.3951–2852.3963) are subject to the new FDA regulations. Further, FDA's regulations, together with current marketing practices, indicate that a third product—lemon juice from concentrate—should also be provided grading standards.

The newly established FDA standards of identity and fill of container for lemon juice will: (1) Permit the addition of concentrated lemon juice to single strength lemon juice in such quantity so that the increase in acidity, calculated as anhydrous citric acid, does not exceed 15 percent of the acidity of the finished food; (2) allow for the use of safe and suitable preservatives as a method of preservation, in addition to physical methods of preservation; (3) standardize "lemon juice from concentrate" at a minimum soluble solids content of 6 percent by weight, uncorrected for acidity, and a minimum acidity of 4.5 percent by weight, calculated as anhydrous citric acid; and (4) establish a standard fill of container based on a minimum of 90 percent of the total capacity of the container but exempting frozen lemon juice and certain individual serving-size packages (1/2 fluid onces or less) of the food from such a fill of container requirement.

The current voluntary grade standards for canned lemon juice were last revised in 1962. The current voluntary grade standards for concentrated lemon juice for manufacturing were last revised in 1959. Since then, changes in food processing technology, marketing practices, and consumption practices have prompted the FDA to establish the new standards of identity and fill of container for lemon juice to promote honesty and fair dealing in the marketplace and facilitate international trade. The USDA proposal would align the grade standards for both canned lemon juice and concentrated lemon juice for manufacturing with the newly established FDA standards.

Accordingly, the U.S. Standards for Grades of Concentrated Lemon Juice for Manufacturing will be removed from 7 CFR 2852.3951–2852.3963 and will be merged into the U.S. Standards for Grades of Canned Lemon Juice (7 CFR 2852.5481–2852.5492), which are also amended, including new grading standards for lemon juice from concentrate, as follows. The Table of Contents would be revised accordingly:

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Sec.

2852.3951–2852.3963 [Reserved]

Subpart—United States Standards for Grades of Lemon Juice

Sec.

2852.5481 Product description.
2852.5482 Definitions of terms.
2852.5483 Recommended sample unit size.
2852.5484 Grades
2852.5485 Factors of quality and analysis.

---

[1] The Commodity Services Program of the Food Safety and Quality Service of the U.S. Department of Agriculture (USDA) was transferred to the Agricultural Marketing Service of USDA by USDA Secretary's Memorandum 1000–1, issued June 17, 1981. A notice detailing the agencies' reorganization is being drafted for later publication.

[2] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Sec.
2852.5486 Requirements for grades.
2852.5487 Sample size.
2852.5488 Lot requirements.
2852.5489 [Reserved]
2852.5490 [Reserved]
2852.5491 [Reserved]
2852.5492 [Reserved]

* * * * *

§ 2852.3951–§ 2852.3963 [Reserved]

* * * * *

Subpart—United States Standards for Grades of Lemon Juice

§ 2852.5481 Product description.

(a) *Lemon juice* is the product represented as defined in the Standards of Identity for Lemon Juice (21 CFR 146.114), issued under the Federal Food, Drug, and Cosmetic Act.

(b) *Lemon juice from concentrate* is the product represented as defined in the Standards of Identity for Lemon Juice (21 CFR 146.114), issued under the Federal Food, Drug, and Cosmetic Act.

(c) *Concentrated lemon juice for manufacturing* is the product processed by concentrating and preserving the product by physical or other permissible means and which product is represented as defined in the Standards of Identity for Lemon Juice (21 CFR 146.114), issued under the Federal Food, Drug, and Cosmetic Act. Any safe and suitable optional ingredient(s) permissible under the Federal Food, Drug, and Cosmetic Act may be used.

§ 2852.5482 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Acid* means the percent, by weight, of total acidity (calculated as anhydrous citric acid).

(b) *Appearance* means the physical properties of lemon juice which are visually evaluated.

(c) *Brix* means the percent, by weight, of lemon soluble solids, uncorrected for acidity.

(d) *Coagulated pulp* means the curdled pulp.

(e) *Color.*

(1) *Good color* means the lemon juice is bright and typical of properly processed juice extracted from mature well-ripened lemon. Lemon juice that has a good color may be assigned a score of 36 to 40 points.

(2) *Reasonably good color* means the lemon juice is slightly affected by browning due to scorching, oxidation, improper storage or any other cause. Lemon juice that has a reasonably good color may be assigned a score of 32 to 35 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) *Poor color* means the lemon juice fails to meet the requirements for "reasonably good color." Lemon juice that has a poor color may be assigned a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product.

(f) *Defect* means the degree of freedom from seeds or particles of seeds, dark specks, or any other quality feature that adversely affects the appearance or usability of the product.

(1) *Practically free from defects* means defects may be present but not in excess of the amount normally expected in lemon juice. Lemon juice that is practically free from defects may be assigned a score of 27 to 30 points.

(2) *Reasonably free from defects* means the presence of defects does not seriously affect the appearance or usability of the lemon juice. Lemon juice that is reasonably free from defects may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) Lemon juice that fails to meet the requirements for "reasonably free from defects" may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(g) *Fine centrifuged pulp* means pulp that settles out on centrifuging after first separating the light membranous material from the sample by pouring it through a No. 20 sieve.

(h) *Flavor.*

(1) *Good flavor* means:

(i) Lemon juice and lemon juice from concentrate that has the distinct flavor of properly prepared, freshly extracted lemon juice which is practically free from any trace of terpenic, oxidized, scorched, or caramelized flavors and is free from abnormal flavors of any kind.

(ii) Concentrated lemon juice for manufacturing that is practically free from traces of scorching, oxidation, caramelization and terpenic flavors and is free from abnormal flavors of any kind.

(iii) Lemon juice which may be assigned a score of 27 to 30 points.

(2) *Reasonably good flavor* means:

(i) Lemon juice and lemon juice from concentrate that has a normal flavor which may have a slightly caramelized, oxidized, scorched or terpenic flavor, but is free from off-flavors of any kind.

(ii) Concentrated lemon juice for manufacturing that has a normal lemon flavor which is reasonably free from terpenic, oxidized, caramelized, or scorched flavors and is free from off-flavors of any kind.

(iii) Lemon juice which may be assigned a score of 24 to 26 points and shall not be graded above U.S. Grade B, regardless of the total score for the product.

(3) *Poor flavor* means the lemon juice fails to meet the requirements for "reasonably good flavor." Lemon juice that has a poor flavor may be assigned a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product.

(i) *Gelation* means the formation of gel-like properties in the lemon juice.

(j) *Light membranous materials* means pulp including juice sacs but exclusive of peel particles.

(k) *Pulp* means light membranous materials and fine centrifuged materials.

(l) *Reconstituted juice* means the product obtained by thoroughly mixing the concentrated lemon juice with a volume of water and/or lemon juice so that the concentration is reduced to approximately 5.7 grams acid per 100 grams of juice.

(m) *Reconstitutes properly* means that the concentrate dissolves readily in water and/or lemon juice.

(n) *Sample unit* means a portion of lemon juice used for grading.

(o) *Terpenic flavor* means a specific flavor found in oils and resins.

§ 2852.5483 Recommended sample unit size.

The requirements for all factors of quality are based on the following:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container; or

(c) A combination of the contents of two or more containers.

§ 2852.5484 Grades.

(a) *U.S. Grade A* is the quality of lemon juice that:

(1) Meets the applicable requirements of Tables I and II; and

(2) Scores not less than 90 points.

(b) *U.S. Grade B* is the quality of lemon juice that:

(1) Meets the applicable requirements of Tables I and II; and

(2) Scores not less than 80 points.

(c) *Substandard* is the quality of lemon juice that fails to meet the requirements for U.S. Grade B.

§ 2852.5485 Factors of quality and analysis.

The grade of a lot of lemon juice is based on observation and analysis of lemon juice, concentrated lemon juice, and reconstituted lemon juice for the following quality and analytical factors:

(a) Quality:

(1) Appearance;
(2) Coagulation;
(3) Color;
(4) Defects;
(5) Flavor;
(6) Gelation;
(7) Reconstitution; and
(8) Total score points.
(b) Analytical:
(1) Acid;
(2) Brix measurement (uncorrected for acidity);
(3) Fine centrifuged pulp; and
(4) Light membranous materials.

§ 2852.5486 Requirements for grades.

Table I.—*Lemon Juice and Lemon Juice From Concentrate*

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh lemon juice	Fails grade A.
Coagulation	None	Slight.
Color	Good	Reasonably good.
Defects	Practially free	Reasonably free.
Flavor	Good	Reasonably good.
Reconstitution [2]	Reconstitutes properly.	Reconstitutes properly.
Analytical:		
Acid	5–7 g/100 g juice	4.5–7.5 g/100 g juice.
Brix (minimum)	6°	6°
Fine centrifuged pulp (maximum).	13% by volume	16% by volume.
Light membranous materials.	Slightly affect appearance or usability.	Materially affect appearance or usability.

[2] Applicable to Lemon Juice from Concentrate.

Table II.—*Concentrated Lemon Juice for Manufacturing*

[Reconstituted prior to quality evaluation and analysis]

Factors	Grade A	Grade B
Quality:		
Appearance	Fresh lemon juice	Fails grade A.
Coagulation	None	Slight.
Color	Good	Reasonably good.
Defects	Practically free	Reasonably free.
Flavor	Good	Reasonably good
Gelation [3]	Slight	Material
Reconstitution	Reconstitutes properly	Reconstitutes properly.
Analytical:		
Acid	5-7 g/100 g juice	4.5–7.5 g/100 g juice.
Brix (minimum)	6°	6°.
Fine centrifuged pulp (maximum).	Slightly affect appearance or usability.	Materially affect appearance or usability.
Light membranous materials.	Slightly affect apperance or usability.	Materially affect appearance or usability.

[3] Concentrate state.

§ 2852.5487 Sample size.

The sample size to determine meeting the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 2852.1 to 2852.83).

§ 2852.5488 Lot requirements.

A lot of lemon juice is considered as meeting requirements for quality if:
(a) The requirements specified in Tables I and II, as applicable, are met; and
(b) The sampling plans and procedures in 7 CFR 2852.1 to 2852.83 are met.

§ 2852.5489 through 2852.5492 [Reserved]

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C. on August 31, 1981.

William T. Manley,
Deputy Administrator Marketing Program Operations.

[FR Doc. 81-25832 Filed 9-3-81; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Maryland permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Maryland program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received on or before 4:00 p.m. on October 5, 1981 to be considered in the decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for September 24, 1981, from 7:00 p.m. to 9:00.

Any person interested in making an oral or written presentation at the hearing should contact the person listed below by September 11, 1981.

If no person has contacted Ms. Struminski to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement; Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

The public hearing will be held at: Beall High School Auditorium, East Main Street, Route 40, Frostburg, Maryland.

Copies of the Maryland program, the proposed modifications to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM Region I Office and the office of the state regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Region I, 603 Morris Street, Charleston, West Virginia 25301; Telephone: (304) 342–8125
Office of Surface Mining Reclamation and Enforcement, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–4728
Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401; Telephone: (301) 269–2261

FOR FURTHER INFORMATION CONTACT: Christine M. Struminski, Assistant Regional Director, Division of State and Federal Programs, 603 Morris Street, Charleston, West Virginia 25301; Telephone: (304) 342–8125.

SUPPLEMENTARY INFORMATION: On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. On December 1, 1980, following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior approved the program conditioned on the correction of minor deficiencies in the State law and regulations. Conditions relating to State law or regulations requiring a statutory change were to be corrected by October 1, 1981. Conditions relating to regulation changes only were to be corrected by April 1, 1981. The

approval was effective upon publication of the notice of conditional approval in the December 1, 1980, **Federal Register** (45 FR 79430–79451).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explorations of the conditions of approval of the Maryland program can be found in the December 1, 1980, **Federal Register** (45 FR 79430–79451).

The Secretary of the Interior determined that the Maryland program contained the following minor deficiencies in the State Regulation (COMAR).

1. COMAR 08.13.09.01B(92) and 08.13.09.31A defined "topsoil" inconsistently with 30 CFR 701.5.

2. COMAR 08.13.09.01B(39)(a) defined "hydrologic balance" inconsistently with 30 CFR 701.5 by not providing for the relationship between the quality and quantity of water.

3. COMAR 08.13.09.23J did not provide for the diversion of water into underground mine workings as provided in 30 CFR 817.55.

4. COMAR 08.13.09.05A(13) did not provide for the use of the best technology currently available to maintain environmental integrity in coal recovery as provided in 30 CFR 816.59 and 817.59.

5. COMAR 08.13.09.25C(4)(b)(ii) did not provide for a four hour aggregate of blasting as provided in 30 CFR 816.64(b)(2)(ii).

6. COMAR 08.13.09.26A and 08.13.09.26D(6) did not provide for the protection of fish and wildlife, including the use of the best technology currently available, to minimize adverse impacts and the prevention of fires to minimize adverse impacts as provided in 30 CFR 816.97(d) and 816.97(d)(8).

7. COMAR 08.13.09.35A(5) did not provide for the maintenance of necessary fences and proper management practices on revegetated areas as provided in 30 CFR 816.116(e)(1).

8. COMAR 08.13.09.35D(1) did not provide for the success of revegetation of cropland be determined on the basis of crop production and productive capability be determined by on-site measurement of bromus, crop yields, tree heights or some other measure of the actual vegetation productivity as provided in 30 CFR 816.116(b) and 816.116(b)(3)(iii).

9. COMAR 08.13.09.03G(1) did not provide for jurisdiction over facilities connected by transportation mechanisms involving the use of public roads as provided in Section 701(28) of SMCRA.

10. COMAR 08.13.09.020(4)(d) and 08.13.09.02M(10) did not provide for the underground permit application requirements for coal development waste and mine development waste as provided in 30 CFR 783.25(i) and 784.11(b)(4).

11. COMAR 08.13.09.02Q and 08.13.09.02R did not provide for the monitoring of subsidence as provided in 30 CFR 784.20 and 784.23(b)(12).

12. COMAR 08.13.09.02S did not provide for the inclusion of specific details in an operator's plan for return of coal processing waste to abandoned underground mine workings provided in 30 CFR 784.25.

13. COMAR 08.13.09.03D(4)(a) did not provide for the requirements that postmining land use of prime farmland must be cropland as provided in 30 CFR 785.17(d).

14. COMAR 08.13.09.41A(2) and 08.09.41C did not provide for the assessment of each day of each continuing violation as a separate violation and relating to the maximum and penalty amount of $5,000 as provided in Section 518(a) of SMCRA.

15. COMAR 08.13.09.41B(4) and 08.13.09.41B(6) did not provide for any outside time limits for the payment of penalties as provided in 30 CFR 845.18.

16. COMAR 08.13.09.41A(5) did not provide for mandatory alternative enforcement actions beyond the 30-day period during which a penalty for nonabatement is assessed as provided for in 30 CFR 845.15.

17. COMAR 08.13.09.42A(5) and 08.13.09.42A(6) did not provide for mandatory issuance of a show cause order and the specific criteria for the issuance of a show cause order under certain situations as provided in 30 CFR 843.13(a)(2) and (3).

18. COMAR 08.13.09.40F(1) did not provide for the basis for issuance of cease orders at being independent of each other is provided in 30 CFR 843.11.

19. COMAR 08.13.09.40G(3) did not provide for a written response being given to the citizen requesting an inspection within ten days of the inspection or within fifteen days if no inspection is conducted as provided in 30 CFR 842.12(d).

20. COMAR 08.13.09.430 did not provide for the awarding of costs in accordance with 43 CFR Part 4, Subpart L, as proivided in 30 CFR 840.15.

21. COMAR 08.13.09.44 did provide for public participation in the enforcement of the Maryland program consistent with the discovery procedures for administrative hearings in 43CFR 4.1130 et. seq. as provided in 30 CFR 840.15.

22. COMAR 08.13.09.40H did not provide for the notification of the public and public participation in mine site hearings as provided in 30 CFR 843.15.

23. COMAR 08.13.09.42D did not provide for the notification of the public of hearings on the suspension or reviolation of permits as provided in 30 CFR 843.13(d).

In accepting the Secretary's conditional approval, Maryland agreed to correct deficiences in the regulations which did not require revisions in the Maryland law by April 1, 1981, and the statutory deficiencies and regulation changes requiring legislative action by October 1, 1981.

On February 11, 1981, OSM received a letter from the Maryland Department of Natural Resources (See Maryland Administrative Record MD–151) transmitting proposed regulations to the Maryland program to satisfy certain conditions set forth by the Secretary on December 1, 1980. On April 9, 1981, OSM received a letter from the Maryland DNR (See Maryland Administrative Record MD–157) transmitting a copy of the Notice of Final Action, published in the Maryland Register on April 3, 1981, promulgating regulations to satisfy the conditions of the Maryland program approval as presented above. The Secretary now seeks public comment on the adequacy of these regulations in satisfying the conditions of the Maryland program approval.

Additional Determination:

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292 (d), no environmental impact statement need be prepared on this rulemaking.

Dated: August 28, 1981.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 81–26150 Filed 9–3–81; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL–1914–2]

Requirements for Preparation, Adoption, and Submittal of State Implementation Plans; Experimental State Implementation Plan Processing Techniques

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent.

SUMMARY: This notice describes a number of actions the Environmental Protection Agency has implemented on an experimental basis in an effort to test new and innovative approaches to processing State Implementation Plan (SIP) revisions.

FOR FURTHER INFORMATION CONTACT: Jane Kelly, Control Programs Operations Branch, MD–15, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5665; FTS: 629–5665.

SUPPLEMENTARY INFORMATION: Over the past several years, numerous concerns have been raised both within EPA and the air pollution control community in general regarding the time and complexities involved in processing SIP revisions. As a result of these concerns, EPA has initiated several experimental processing approaches that are expected to improve and enhance the SIP process. These include shortening the time necessary to complete rulemaking actions, providing the States with EPA formal comments on a more timely basis, and reducing the uncertainty felt by States and industry regarding EPA's position on specific issues.

The following are descriptions of these efforts.

Parallel Processing

Presently, SIP revisions are developed between the State and the EPA through independent rulemaking processes. First, the State develops and adopts a regulation following State administrative procedures. Then, EPA incorporates the regulation in the SIP. This sequential rulemaking may lead to tension between the State and EPA because the total review process is lengthy. Also, if significant changes are required by EPA, the State may have to repeat their rulemaking process.

Using the *parallel processing* procedure, the EPA Regional Office will work more closely with the State as the State develops a major regulation and proceeds through the State rulemaking process. EPA rulemaking will be carried on simultaneously with the State process. Ideally, the State and EPA will propose the regulation at the same time, announce concurrent comment periods, and jointly review the comments. The Regional Office will consult with all other appropriate EPA offices as the regulation is being developed and during the State and Federal rulemaking process to ensure that all issues are identified before the State adopts the regulation.

If no comments are received by the State or EPA that necessitate significant changes to the regulation, the regulation will be adopted by the State and submitted to EPA. The adopted regulation will then be processed by EPA as a final rulemaking. If significant changes do have to be made to the proposed regulation, EPA may need to repropose the regulation.

EPA rulemaking to incorporate a State regulation in a SIP may also be initiated when a rule has been proposed by the State but not yet adopted. This will allow the total Federal/State processing time to be reduced in cases where State rulemaking has progressed too far to allow the ideal parallel processing procedure.

The parallel processing approach includes the earlier involvement of EPA in the SIP revision process and so reduces the processing time by several months.

Immediate Final Rulemaking

Presently, the SIP revision process requires that all revisions be proposed for public comment before going to final rulemaking. The comment period is 30 or 60 days depending on the anticipated public interest in the revision. Both the proposed rulemaking and the final rulemaking must go through internal EPA review before being published. Because of the straightforward nature of some actions or the narrowness of their scope, many SIP revisions get few, if any, comments from the public during the comment period. Therefore, as part of the experimental SIP processing program, SIP revisions that are judged by the EPA Regional Office to be noncontroversial will be published as a final rulemaking without going through a proposed rulemaking. The public will be advised that no comments are anticipated and that unless notice is received within 30 days that someone wishes to submit adverse or critical comments, the revision will be effective 60 days from the date the **Federal Register** notice is published. However, if within 30 days notice is received that someone wishes to submit adverse or critical comments, the action will be withdrawn and EPA will publish subsequent notices before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

If SIP revisions do not require substantial changes due to public comments—and past experience indicates that this is often the case—this approach can save time and resources while maintaining the public's right to comment.

Other Actions

Other administrative measures are being taken for the purpose of streamlining internal Agency review. The Agency expects to review all of these innovative processing techniques and develop final procedures over the next year.

Dated: August 12, 1981.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-25908 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-26-M

---

40 CFR Part 80

[EN-FRL 1868-8]

Fuels and Fuel Additives; Measure of Octane of Unleaded Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule would amend the unleaded gasoline regulations (40 CFR 80.22(b)), substituting (R+M)/2 for Research Octane Number as a measure of unleaded gasoline octane. Research Octane Number (RON) and Motor Octane Number (MON) are the two standard laboratory methods of measuring gasoline octane. (R+M)/2, which is also referred to as AKI, or anti-knock index, is equal to half the sum of the research and motor octane numbers. Stations now required to offer for sale at least one grade of unleaded gasoline of at least 91 RON would instead be required to offer for sale at least one grade of unleaded gasoline of at least 87 AKI. This change is being made to bring EPA's rule into conformity with current practice, and should not appreciably alter the effect of the existing requirement.

DATE: Comments must be received no later than October 5, 1981. EPA will hold a public hearing on this proposed rule if requests for a hearing are received by September 21, 1981. If requests for a hearing are received, the date of a hearing will be announced in the **Federal Register.**

ADDRESS: Comments should be sent to Public Docket No. EN–81–11, U.S. Environmental Protection Agency, Central Docket Section (A–130), West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. This docket may be inspected between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT:

Robert Gelman, Fuels Sections, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460 at (202) 472-9367.

SUPPLEMENTARY INFORMATION: On January 10, 1973, EPA published unleaded gasoline regulations (38 FR 1254), which included the requirement that, beginning July 1, 1974, all retail gasoline outlets selling more than a specified volume of gasoline per month would have to offer for sale at least one grade of unleaded gasoline meeting or exceeding a minimum octane standard. This was designed to make gasoline readily available in time for use by 1975 model year vehicles.

At the time these regulations were published, RON was the most commonly used octane designation. Particularly, most automobile owner's manuals used RON to specify octane requirements. Since then, the refining and automobile manufacturing industries, the ASTM (American Society for Testing and Materials), and the Congress, through the Petroleum Marketing Practices Act, have adopted (R+M)/2 as the general standard to designate octane. This standard is considered to be a more reliable indicator of fuel anti-knock characteristics when used in today's engines than either RON or MON alone. The (R+M)/2 designation is now required to be posted on all gasoline pumps, and it is the designation now mentioned in most automobile owner's manuals.

Although there is no absolute correspondence between RON and (R+M)/2 values, 87 (R+M)/2 is generally recognized as approximately equivalent to 91 RON, as the MON is normally about eight numbers lower than the RON. Therefore, EPA feels that a simple substitution of 87 (R+M)/2 for 91 RON will eliminate much confusion on the part of motorists without altering the effect of the regulation and will make compliance much easier for retail outlets by eliminating the need to work with two sets of octane numbers.

EPA specifically asks for comments from the industry on whether this proposed change in designation will simplify the gasoline distribution process.

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only effect of this action is to make it easier for gasoline retail outlets and wholesale purchaser-consumers to comply with EPA's unleaded gasoline regulations.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Finally, under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. This modification should not have a significant adverse impact on any of the affected entities, which are primarily retail gasoline outlets and wholesale purchaser-consumers. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have significant economic impact on a substantial number of small entities.

Dated: August 28, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Accordingly, notice is hereby given that 40 CFR Part 80 is proposed to be amended as follows:

1. In § 80.2, by revising paragraph (d) to read as follows:

§ 80.2 Definitions.

* * * * *

(d) "Octane number, (R+M)/2 method" means measurement of a gasoline's anti-knock characteristics which is obtained by dividing the sum of the Research Octane Number and the Motor Octane Number by two, as explained by the American Society for Testing and Materials (ASTM) in ASTM D439, entitled "Standard Specifications for Automotive Gasoline." The Research Octane Number is determined by ASTM standard test method D2699, and the Motor Octane Number is determined by ASTM standard test method D2700.

§ 80.22 [Amended]

2. In § 80.22, by amending paragraph (b) so that the phrase, "* * * not less than 91 Research Octane Number: * * *" is changed to read, "* * * not less than 87 Octane, (R+M)/2 method: * * *".

[FR Doc. 81-25838 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-594; RM-3896]

FM Broadcast Station in Bozeman, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 236 to Bozeman, Montana, in response to a petition filed by the Mayfish Corporation. The assignment could provide Bozeman with a second local commercial FM service.

DATES: Comments must be filed on or before October 26, 1981, and reply comments on or before November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 20, 1981.

Released: August 27, 1981.

In the matter of an amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Bozeman, Montana); BC Docket No. 81-594, RM-3896; notice of proposed rule making.

1. A petition for rule making [1] was filed by the Mayfish Corporation ("petitioner"), requesting the assignment of Class C FM Channel 236 to Bozeman, Montana, as that community's second commercial FM assignment. Petitioner states that it will apply for the channel if assigned as proposed. No responses to the petition have been filed, and the assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. Bozeman (population 18,670),[2] the seat of Gallatin County (population 32,505), is located in southwestern Montana, approximately 600 kilometers (380 miles) north of Salt Lake City, Utah. It is served locally by fulltime AM

[1] Public Notice of the petition was given on May 20, 1981, Report No. 1287.

[2] Population figures are extracted from the 1970 U.S. Census, unless otherwise indicated.

Stations KBMN, KBOZ and KXXL, by noncommercial educational FM Station KGLT (Channel 220), and by commercial FM Station KBZN (Channel 229).

3. Petitioner states that because Bozeman is situated in very mountainous terrain, the area is restricted in the variety of FM reception available locally. It indicates that Bozeman is Montana's sixth largest city, that during the period 1960–1970, its population increased 28 percent, and that it expects this trend will continue (preliminary 1980 Census figures, according to petitioner, indicate Bozeman's population to be 21,611 and 42,821 for Gallatin County). Further, it asserts that the community's economy is diversified, with tourism, electronics, lumber, agriculture, and education as significant elements. It states that Bozeman is the retail trade center for a vast area of Montana, and that it had retail sales in 1977 totalling $148,069,000. Additionally, it indicates that Montana State University, which had a fall 1979 enrollment of 10,000 students, is located in Bozeman. Overall, petitioner has submitted sufficient data to demonstrate a need for a second commercial FM assignment to its community.

4. An assignment of Class C FM Channel 236 to Bozeman will cause preclusion on Channel 233 within 65 miles; Channel 234 within 65 miles; Channel 235 within 150 miles; Channel 236 within 180 miles; and Channel 237A within 105 miles. However, petitioner states that alternative channels are assigned or available to the precluded communities which have a population in excess of 1,000 persons.

5. Petitioner did not that its proposal would cover any unserved and underserved areas. *See, Roanoke Rapids, North Carolina*[3] and *Anamosa, Iowa.*[4] Its engineering statement merely indicates that the assignment "* * * would provide a choice of FM * * * service over a wide area and would make possible a diversification of programming over a wide area in southwestern Montana. * * * *." If petitioner wishes us to consider such supporting information, it should submit a study in its comments. Otherwise, since there is already an FM assignment, we would assume no first FM service would be provided.

6. Since the proposed assignment is within 400 kilometers (250 miles) of the U.S.-Canada border, Canadian concurrence must be obtained.

7. In view of the apparent need for a second local commerical FM assignment, which could provide a first competitive FM outlet for Bozeman, as well as a sixth local aural service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Bozeman, Mont	229	229, 236

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before, October 26, 1981, and reply comments on or before November 16, 1981.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 Fed. Reg. 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81–25941 Filed 9–3–81; 8:45 am]

BILLING CODE 6712–01–M

[3] F.C.C. 2d 672 (1967).

[4] F.C.C. 2d 520 (1974).

47 CFR Part 73

[BC Docket No. 81-596; RM-3904]

FM Broadcast Station in Cadillac, Mich.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 296A to Cadillac, Michigan, in response to a petition filed by MacDonald Broadcasting Company. The assignment could provide Cadillac with a third FM service.

DATE: Comments must be filed on or before October 26, 1981, and reply comments on or before November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 20, 1981.

Released: August 27, 1981.

By the Acting Chief, Policy and Rules Division:

In the matter of an amendment of § 73.202(b), table of assignments, FM Broadcast Stations, (Cadillac, Michigan), BC Docket No. 81-596 RM-3904; notice of proposed rule making.

1. A petition for rule making [1] was filed by MacDonald Broadcasting Company ("petitioner"), requesting the assignment of Channel 296A to Cadillac, Michigan, as that community's third FM assignment. Petitioner states that it will apply for the channel, if assigned as proposed. No responses to the petition have been filed.

2. Cadillac (population 9,900),[2] the seat of Wexford County (population 19,717), is located approximately 280 kilometers (175 miles) northwest of Detroit, Michigan. It is served locally by two fulltime AM stations (WATT and WWAM) and 2 FM stations (WITW, Channel 244A, and WKJF, Channel 225).

3. Petitioner states that the population of Cadillac increased approximately 6.8 percent between 1960-1970, and it anticipates this growth trend will continue. According to petitioner, approximately 60 percent of the economy of its community is derived from industry, farming and service-related activities, as well as that generated by considerable tourism. Further, it adds that many manufacturing plants are located in the area, and that the largest employers in the county are Mercy Hospital and the Cadillac public school system.

4. Petitioner did not submit a preclusion study to indicate what communities having populations in excess of 1,000 persons and currently without any FM assignment would be affected by this proposal. Since the request seeks a third assignment to a community of less than 50,000, preclusion data is important to justify an exception to our population criteria which places a limit of two channels to such communities. Petitioner should list alternate channels which could be assigned to any precluded communities. This data should be submitted by the date set forth herein for filing comments to justify an exception to our population criteria.

5. The transmitter site for this proposal must be located approximately 5.4 kilometers (3.4 miles) south of Cadillac to avoid short-spacing to Station WWRM (Channel 294), in Gaylord, Michigan. Petitioner acknowledges the need for a site limitation, and indicates that a substantial area exists to the west and south of Cadillac which can accommodate a transmitter site that would assure compliance with the mileage separation requirements. Additionally, since the proposed assignment is within 400 kilometers (250 miles) of the U.S.-Canada border, Canadian concurrence must be obtained.

6. In view of the foregoing, the Commission proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows for the community listed:

City	Channel No.	
	Present	Proposed
Cadillac, Mich.	225, 244A	225, 244A, 296A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 26, 1981, and reply comments on or before November 16, 1981.

9. The Commission had determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contract Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments offically filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the *Notice*, they will be considered as

[1] Public Notice of the petition was given on June 4, 1981, Report No. 1290.

[2] Population figures are taken from the 1970 U.S. Census.

comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 81-25942 Filed 9-3-81; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-597; RM-3874]

FM Broadcast Stations, Ontonagon, Mich.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 252A to Ontonagon, Michigan, in response to a petition filed by Harvey L. Desnick. This assignment could provide a first local FM station to Ontonagon.

DATES: Comments must be filed on or before October 26, 1981, and reply comments on or before November 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 20, 1981.
Released: August 28, 1981.

By the Acting Chief, Policy and Rules Division:

In the matter of an amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Ontonagon, Michigan); BC Docket No. 81-597, RM-3874; notice of proposed rule making.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Harvey L. Desnick ("petitioner") proposing the assignment of FM Channel 252A to Ontonagon, Michigan. No comments opposing this assignment have been received.

(b) The proposed channel can be assigned to Ontonagon in compliance with the minimum distance separation requirements.

(c) Petitioner intends to apply for the channel, if assigned to Ontonagon.

2. *Demographic Data:*

(a) *Location:* Ontonagon, the seat of Ontonagon County, is located on the shores of Lake Superior, approximately 152 kilometers (95 miles) west of Marquette, Michigan.

(b) *Population:* Ontonagon–2,432 [2] Ontonagon County–10,548.

(c) *Present Aural Service:* Ontonagon is presently served by 10-watt FM Station WOAS (Channel 203).

3. The assignment of a Class A channel to Ontonagon would be the first FM assignment to any city in Ontonagon County.

4. Major area employers include Hoerner Waldorf, White Pine Copper Company, and the Upper Peninsula Shipbuilding Company. According to the petitioner, these industries support an "adequate retail trade area for the subsistence of a well managed FM radio station."

5. Since the requested assignment is within 402 kilometers (250 miles) of the U.S.-Canadian border, Canadian concurrence must be obtained.

6. In light of the above, the Commission finds it in the public interest to propose amending § 73.202(b) of the Commission's Rules, the FM Table of Assignments, with regard to the following community:

City	Channel No.	
	Present	Proposed
Ontonagon, Mich		252A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 26, 1981, and reply comments on or before November 16, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

---

[1] *Public Notice* of the petition was given on April 7, 1981, Report No. 1279.

[2] Population figures are taken from the 1970 U.S. Census.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

FR Doc. 81-25943 Filed 9-3-81; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[Ex Parte No. MC-77 (Sub-No. 3)]

Elimination of Certificates as Measure of "Holding Out"

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; supplemental notice.

SUMMARY: In an earlier notice of proposed rulemaking the Commission proposed to re-examine the duty imposed on motor common carriers of property to provide transportation coextensive with all points and services contained in their certificates of public convenience and necessity. Comments were due on or before March 9, 1981. Upon consideration of the record in this proceeding, further development, in the form of briefs and oral argument, is desired. Oral argument is scheduled during the week of September 28, 1981, in Washington, D.C. Briefs, not to exceed 25 pages in length, may be filed on or before September 15, 1981. Any person desiring to make oral representations to the Commission must file a brief indicating clearly a desire to do so and must confine argument to points contained in the brief.

DATE: Briefs must be filed on or before September 15, 1981. The date, time, and place of oral argument, as well as a schedule of appearances will be issued subsequently.

ADDRESS: Briefs should be addressed to: James H. Bayne, Assistant Secretary, Room 2215, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: James H. Bayne, telephone: (202) 275-7428.

SUPPLEMENTARY INFORMATION: The Commission desires further development of the record in this proceeding to determine the extent, if any, to which the traditional concept of the common carrier obligation should be modified. For this purpose, oral argument has been scheduled. Briefs, not to exceed 25 pages in length, may be filed by any interested person. Only persons filing briefs indicating clearly a desire to participate in oral argument will be permitted to do so. To assure that everyone has an equal opportunity to participate, we urge that individuals and groups with similar interests designate a single spokesperson to advance commonly held views and arguments. It is not anticipated that more than one day will be necessary for oral argument and questions.

To assist in understanding the issues, we here summarize the significant features of this rulemaking. The prior notice [46 FR 8604, January 27, 1981, as amended at 46 FR 13751, February 24, 1981], recognized that the common carrier obligation is a principle rooted in the common law. In the context of present-day operations, the common carrier obligation contemplates rendition, upon reasonable request, of for-hire motor carrier service, on a nondiscriminatory basis, to the extent of a carrier's certificated authority. This concept was developed originally, and exists today, expressly for the protection of the public which relies upon common carrier services to meet its transportation needs.

It was observed in the prior notice that the common carrier obligation has been codified in the Interstate Commerce Act, as amended. Given the policy objectives of the 1980 Act, however, particularly that of enhancing competition, it was questioned whether the traditional view of the common carrier obligation was compatible with the new legislation or whether eased entry standards would require concomitant easing of the common carrier obligation. Alternative means for measuring the extent of the common carrier obligation were suggested. These included:

(1) Formal means, including:

(a) Use of tariffs to restrict service to less than the full range of a carrier's certificated authority, and

(b) Declaration (in the **Federal Register**) of a carrier's marketplace and services, and

(2) Informal means, such as advertising.

Under any alternative, one complaining of discrimination would have to demonstrate the absence of alternatives, the likelihood of a long-term failure of service, an intent by the carrier to harm by discrimination, or some other form of unfair practice before the Commission would challenge the carrier's allocation of its resources to other markets or customers.

Another possibility, not mentioned specifically in the prior notice but raised in public comments, is retention of the traditinal concept of the common carrier obligation.

We would appreciate briefs and oral argument addressing, among other matters, the following:

(1) Does the Motor Carrier Act of 1980 require a reinterpretation of the traditional concept of the common carrier obligation?

(2) What is (or what should be) the relationship between the common carrier obligation and the Commission's licensing policy?

(3) How would interested parties be affected by the various interpretations of the common carrier obligation?

(4) To what extent might the various interpretations involve the potential for discrimination among shippers?

(5) What enforcement role should the Commission play with respect to the common carrier obligation?

(6) What practical problems are there with the enforcement of the common

carrier obligation under any of the proposed alternatives?

(7) What, if any, administrative actions might be appropriate to promote service consistent with the common carrier obligation?

This action will not affect significantly either the quality of the human environment or the conservation of energy resources.

This document is issued under the provisions of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: September 1, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gilliam concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, concurring:

I'm pleased that the Commission has called for oral argument in this proceeding and has set issues for discussion in a way that fully includes the issues and comments received in its notice of January 22, 1981 (49 CFR Part 1310).

However, less the apparent neutrality of the notice of oral argument cloud the clear and sharp nature and full ramifications of the proceeding, I feel constrained to stress to participants that the decision ultimately reached here offers a rare opportunity to arrive at a definitive answer to the often-asked but rarely answered question of *how much* ICC regulation remains under the implementation of the Motor Carrier Act of 1980. The policy choices and the legal ramifications already appear clear and should be further developed at oral argument.

I would particularly appreciate respondents speaking to the interrelationships that these policy choices necessarily carry with them. For example, does a restrictive certificate or tariff measure of holding out *necessitate* the existence of a correspondingly large governmental enforcement and monitoring force? Would the adoption of a restrictive holding out theory in effect require a wholesale re-examination of recently adopted Commission licensing standards (Ex Parte No. 55 (Sub-No. 43) and Ex Parte No. MC-142 (Sub-No. 1)) which require broad territorial and commodity grants? Are there implications for small community service? Is there a private sector solution? All of these questions have tremendous implications with respect to the long-term implementation of the Motor Carrier Act of 1980. I submit that this proceeding is a litmus test for this Commission on these issues and I urge parties to directly address the legal and policy choices facing us.

[FR Doc. 81-25953 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 46, No. 172
Friday, September 4, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: The purpose of this document is to give notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan (NPIP).

PLACE, DATE, AND TIME OF MEETING: Room 2 W, Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C., 9:00 a.m. to 5:30 p.m., September 22, 1981 and 9:00 a.m. to 12:00 (noon), September 23, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Building 265, BARC-E, Beltsville, MD 20705, 301-344-2227.

SUPPLEMENTARY: The General Conference Committee of the NPIP was established by Secretary's Memorandum No. 1891, Revised, dated July 29, 1980. The purpose of the committee is to make recommendations to the Department relative to the successful operation of the NPIP.

The meeting is to advise the Department on keeping the programs of the NPIP geared to the needs of the industry and to make recommendations to the Department on interpretation of and changes in certain provisions of the NPIP.

Matters scheduled for consideration at the meeting are:

1. Recommendations concerning the certification of flocks and products destined for export.
2. Consideration of cooperative efforts with the cage pet bird industry and of other ways to reduce the risk of introduction of exotic Newcastle disease into the United States.
3. Review of possible changes in NPIP provisions for consideration at the Biennial Plan Conference.
4. Exploration of ways to expedite the elimination of flocks infected with fowl typhoid disease.
5. Determination whether proposed changes in the NPIP regulations are sufficient to justify holding the 1982 National Plan Conference.
6. Selection of participants for an animal welfare special work group.

The meeting will be open to the public. Written statements concerning these matters may be filed with the committee before or at the time of the meeting.

Written statements may be forwarded to Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Building 265, BARC-E, Beltsville, MD 20705, 301-344-2227.

Dated: September 2, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 81-26137 Filed 9-3-81; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Rifle Winter Sports Site; White River National Forest, Garfield County, Colo.; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement concerning development of the proposed Rifle Winter Sports Site.

The Rifle Ski Corporation, in its application for a special use permit, proposes to develop an Alpine Ski Area with attendant facilities on both public and private lands in the Cache and Cottonwood Creek Drainages. The area proposed for development is located about ten miles southwest of Rifle, Colorado, and is within the boundaries of the White River National Forest. An initial capacity of 4,000 Skiers-At-One-Time (SAOT) is proposed.

The evaluation and analysis of the proposal is being coordinated by the Joint Review Committee, as provided by a Memorandum of Understanding dated July 13, 1981. Members of the Committee include representatives of USDA, Forest Service (Lead Agency); State of Colorado; Garfield County, Colorado; and the Rifle Ski Corporation.

The alternatives of no action and of permitting development as proposed will be evaluated. Additional alternatives may be identified and considered.

Scoping meetings were held with members of the Joint Review Committee during the spring of 1981 to identify issues and concerns. An issue paper was prepared and made available to the public in May 1981. On June 2, 1981, a public meeting was held in Rifle, Colorado, to take comment and receive any additional issues which should be considered in the environmental analysis. Subsequent to that meeting the Joint Review Committee identified those issues to be addressed and analyzed in depth. Insignificant issues were eliminated. The assignment of responsibilities has been made in cooperation with the Joint Review Committee. No future scoping meetings are planned at this time.

The U.S. Department of the Interior, Bureau of Land Management and the cities or towns of Rifle, Parachute, and Silt, Colorado have all been invited to serve as advisors.

Richard E. Woodrow, Supervisor of the White River National Forest, is the responsible official.

The draft Environmental Impact Statement is scheduled for completion in October 1981, and the final Environmental Impact Statement is scheduled for filing in February 1982. If the decision is to proceed with development, a special permit for use of public land will be issued during the spring of 1982. Construction could begin in the summer of 1982.

Questions about the proposed actions and Environmental Impact Statement should be directed to John P. Halligan, Community Planner, White River National Forest, phone (303) 945-2521.

Dated: August 26, 1981.

Richard E. Woodrow,

Forest Supervisor.

[FR Doc. 81-25922 Filed 9-3-81: 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

East River Electric Power Cooperative, Inc., Madison, S. Dak.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22, (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $200,000 to East River Electric Power Cooperative, Inc., Madison, South Dakota. These loan funds will be used to finance feasibility studies of a proposed 30 MW wind electric generation facility. If feasible the proposed generation facility would be installed near Huron, South Dakota.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the proposed schedule for the advances to the borrower of the guaranteed loan funds, from Mr. Loren A. Zingmark, Manager, East River Electric Power Cooperative, Inc., P.O. Drawer E, Madison, South Dakota 57042.

In order to be considered, proposals must be submitted by October 5, 1981, to Mr. Zingmark. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as East River Electric Power Cooperative, Inc. and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850 Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 28th day of August 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-25876 Filed 9-3-81: 8:45 am]

BILLING CODE 3410-15-M

United Power Association, Elk River, Minn., Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America in the approximate amount of $400,000 to United Power Association of Elk River, Minnesota. These loan funds will be used to finance front-end and feasibility studies of proposed combined cycle power plants and wind electric generation facilities. The most appropriate sites for and capacities of these facilities are to be determined as part of these studies.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Philip O. Martin, Manager, United Power Association, Elk River, Minnesota 55330.

In order to be considered, proposals must be submitted by October 5, 1981, to Mr. Martin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as United Power Association and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850 Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 31st day of August 1981.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-25877 Filed 9-3-81: 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Bajura Watershed, Puerto Rico; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT: Ivan R. Emmanuelli, Director, Caribbean Area, Soil Conservation Service, Federal Building, Room 633, Chardon Avenue, Hato Rey, Puerto Rico 00918, telephone number (809) 753-4206. *Notice:* Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Bajura Watershed project, Cabo Rojo, Hormogueros, Mayaguez, Las Marias, Maricao, San German, Sabana Grande Municipalities, Puerto Rico, effective on August 17, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: August 27, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-25879 Filed 9-3-81: 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Air Caravane, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 81-8-185.

SUMMARY: The Board's staff proposes to cancel the foreign air carrier permits held by Air Caravane, Inc. (Order 75-1-50), Northward Airlines Limited (Order 78-3-26), Ontario World Air Limited (Order 79-5-110), and Transair Limited (Order 74-12-19). The permits authorize charters with large aircraft between points in Canada and the United States, except Air Caravane's permit which

authorizes charters with small aircraft only.

OBJECTIONS: All interested persons having objections to the staff's tentative finding and conclusion that these foreign air carrier permits should be canceled, as described in the order cited above, shall, no later than September 24, 1981, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the carriers, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the staff's tentative finding and conclusion and cancel the permits.

ADDRESS FOR OBJECTIONS: Docket 39967, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the CAB Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, extension 202-673-5134.

By the Civil Aeronautics Board: August 31, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-25927 Filed 9-3-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39696]

Application of Southeast Alaska Airlines for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81-8-177 applications of Southeast Alaska Airlines under Subpart Q for a certificate of public convenience and necessity for 6 Alaska points, Docket 39696.

SUMMARY: The Board is proposing a grant a certificate of public convenience and necessity to Southeast Alaska Airlines to authorize it to provide service to the Alaska points listed in its application, is tentatively determining that it is fit, willing, and able to provide this service.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority or to its tentative finding of carrier fitness shall file, and serve upon all persons listed below no later than October 1, 1981, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESS: Objections should be filed in Docket 39696, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Neil G. Whitehouse, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: Objections should be served upon the persons listed in paragraph 5 of Order 81-8-177. The complete text of Order 81-8-177 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 81-8-177 to the Distribution Service, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 28, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-25928 Filed 9-3-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39941]

Texasamerican Airways, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-titled proceeding is assigned to be held on September 10, 1981, at 10 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 31, 1981.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 81-25929 Filed 9-3-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39941]

Texasamerican Airways, Inc., Fitness Investigation; Cancellation of Prehearing Conference

Notice is hereby given that pursuant to the request by the applicant in which the Bureau of Domestic Aviation concurred the prehearing conference in the above-titled matter assigned to be held on September 1, 1981 is cancelled.

Dated at Washington, D.C., August 31, 1981.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 81-25930 Filed 9-3-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Fresh Cut Roses From Israel; Amendment to Final Countervailing Duty Determination and Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to Final Countervailing Duty Determination and Countervailing Duty Order.

SUMMARY: On September 4, 1980, we announced our determination that the Government of Israel confers benefits upon the production or export of fresh cut roses which constitute bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act of 1930. We directed the U.S. Customs Service to require the deposit of estimated countervailing duties in the amount of 2.02 percent of the f.o.b. value of the merchandise at the time of its entry, or withdrawal from warehouse, for consumption.

We are amending our determination by directing the U.S. Customs Service to require the deposit of estimated countervailing duties in the amount of 1.55 percent of the f.o.b. value of the merchandise at the time of entry, or withdrawal from warehouse, for consumption.

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Josephine A. Russo, Office of Compliance, Room 2804, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1168).

SUPPLEMENTARY INFORMATION: The Department of Commerce published in the **Federal Register** of September 4, 1980 (45 FR 58516) a notice of "Final Countervailing Duty Determination and Countervailing Duty Order" with regard to fresh cut roses from Israel. The published aggregate net subsidy was 2.02 percent of the f.o.b. value of the exported merchandise. Our notice stated that, in calculating the *ad valorem* benefit to flower packing houses from accelerated depreciation and direct tax reduction under the Encouragement of

Capital Investments Law, we multiplied the absolute benefit conferred by 33.5 percent, the proportion of total flower exports accounted for by roses. This figure was then allocated over rose exports resulting in an *ad valorem* benefit of 0.71 percent for this program. However, in making the calculation, the multiplication by 33.5 percent was omitted. Thus the value of this benefit was overstated. When the benefits to packing houses are multiplied by 33.5 percent and allocated over total rose exports, the correct *ad valorem* benefit is 0.24 percent. The correct total net subsidy equals 1.55 percent of the f.o.b. value of the exported merchandise.

Accordingly, we are directing the U.S. Customs Service, effective on the date of publication of this notice and until further notice, to require the deposit of estimated countervailing duties at the time of entry, or withdrawal from warehouse, for consumption in the amount of 1.55 percent of the f.o.b. value of the merchandise.

This notice is published in accordance with sections 303 and 706 of the Tariff Act of 1930 (19 U.S.C. 1303, 1671e) and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

August 31, 1981.

[FR Doc. 81-25863 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Telecommunications Equipment Technical Advisory Committee was initially established on October 23, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Commitee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (c) licensing procedures which affect the level of export controls applicable to telecommunications equipment or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place:

September 29, 1981, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 7808, 14th Street and Constitution Avenue, NW., Washington, D.C.

This meeting is called on short notice because of the need to obtain and consider the Committee's advice in preparation for revising the multilateral COCOM control list.

Agenda

General Session

(1) Open remarks by the Acting Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of CCL entries 1519, 1522, 1526, 1527 and 1548, as they relate to fiber optic communication, components, and systems.

(4) Industry comments on relevant control parameters for export licensing purposed are requested.

Executive Session

(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meetings.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4117.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

Dated: August 28, 1981.

Saul Padwo,

Director of Licensing.

[FR Doc. 81-25864 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: September 29, 1981, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of procedural or organizational matters relating to the Technical Advisory Committee.

(4) Discuss methods of gathering data at the Hannover Machine Tool Show (EURO-4).

(5) New Business.

Executive Session

(6) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: August 31, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-25985 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-25-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of Administrative Review of antidumping finding.

SUMMARY: On March 17, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covered 10 manufacturers and 95 other exporters, and generally covered the period April 1, 1979 through March 31, 1980.

Interested parties were given an opportunity to submit oral or written comments, and a public hearing was conducted on April 6, 1981. The petitioner and various exporters and importers provided comments at the public hearing and during the comment period. Based on these comments the Department has made adjustments to the margins for seven firms. The margins in the preliminary notice remain unchanged for all other firms. However, appraisement of entries by 13 firms will continue to be suspended pending the Department's review of a level-of-trade issue.

EFFECTIVE DATE: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Alfredo Montemayor, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2291).

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1973, a dumping finding with respect to roller chain, other than bicycle, from Japan was published in the **Federal Register** as Treasury Decision 73–100 (38 FR 9226). On March 17, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 17068–70). The Department has now completed its administrative review of the antidumping finding.

Scope of the Review

The imports covered by this review are shipments of roller chain, other than bicycle, currently classifiable under various provisions of the Tariff Schedules of the United States Annotated (TSUSA), ranging from item numbers 652.1300 through 652.3800. The Department knows of a total of 105 Japanese firms engaged in the manufacture and exportation of roller chain, other than bicycle, to the United States. For the majority of the firms this review covered the period April 1, 1979 through March 31, 1980. For firms with different accounting periods, we reviewed data from their most recent accounting cycle. The response received from Mitsubishi Motors Corporation did not afford the Department adequate time for analysis. The analysis of that data will be included in the next administrative review. Preliminary results of the administrative review of IBM Japan indicated that merchandise exported by this company was not subject to the finding. This matter will be addressed in a subsequent notice.

The Department is currently reviewing the method of adjusting home market prices to reflect different levels of trade for certain firms.

While the margins shown in this notice for the following companies will remain in effect for the purpose of determining estimated cash deposits, liquidation of entries for these firms will continue to be suspended:

(1) Deer Island
(2) Fuji Seiko
(3) Kawasaki
(4) Kashima Trading
(5) Katayama
(6) Meiho Yoko
(7) Naniwa Kogyo
(8) Shinyo Industries
(9) Tabard
(10) Toyota Motor Sales
(11) Taiyo Shokai
(12) Yamaha Motors
(13) Yoshida Auto

A decision concerning the actual assessment of dumping liabilities, if any, for entries by the above firms with purchase dates or export dates, as appropriate, during the periods indicated in this notice will be addressed in a subsequent notice.

Analysis of Petitioner's Comments

(1) *Comment:* The Department is required by law to calculate United States prices on an entry-by-entry basis. Failure to do so may result in errors in currency conversion and determinations of dates of exportation.

Position: Certain exporters provided the Department with sales data based on price lists rather than individual sales. In these situations the Department determined the United States price by deducting from the list price for each particular model the largest possible discount available and then attributing that derived price to all U.S. sales for that model. The Department considers this methodology appropriate as the best information available.

(2) *Comment:* The dumping liability for unreported U.S. sales of roller chain should be based on the highest margin found in our analysis.

Position: In the past, some firms inadvertently failed to report all sales. Our evidence indicates the volume of unreported sales is minimal. Where firms failed to submit data on certain roller chain models the Department used the best information available for each firm to determine the appropriate liability. The best information available

is the individual firm's average margin on reported sales or two percent, whichever is higher. Two percent is the best evidence of the overall margin on all sales of roller chain to the U.S. during the review period.

(3) *Comment:* Certain cost of production data provided to the Department by two Japanese manufacturers are not consistent with data provided to the Japanese Ministry of Finance.

Position: Cost of production data submitted by these manufacturers were verified by the Department. We found no evidence contradicting any of the data submitted. The manufacturers' data relied upon by the petitioner clustered elements of expense treated separately by the Department.

(4) *Comment:* The Department of the Treasury, the Tariff Commission, and the Department have inadequately defined the scope of the finding.

Position: During the course of this administrative review attorneys representing a Japanese roller chain manufacturer and a roller chain importer requested a ruling on the scope of the roller chain finding. This request argued for a very narrow definition of roller chain which would include only chain included in ANSI (American National Standards Institute) standards B 29.1 and B 29.3. We have considered all arguments presented in writing and at the oral hearing by both the respondents and the original petitioner, the American Chain Association. It is our determination that a ruling limiting the roller chain finding to ANSI standards B 29.1 and B 29.3 would be an improper change of the scope of the original finding. The roller chain finding was defined in very broad terms and was purposely never defined in terms of any specific standards or classification numbers. This was done to include *all* roller chain in the finding and to avoid problems when standards and classifications changed. The following breakdown of roller chain is provided as a general guide to the many variations of chain, all of which are "roller chain, other than bicycle chain". This breakdown is not necessarily all inclusive, and new variations of roller chain which generally fit the below categories and are manufactured and imported in the future will be subject to this finding.

The term "roller chain, other than bicycle chain" as used in this finding includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Chain of this type which complies with one of the following descriptions is included in the finding:

A series of alternately assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand having one row of roller links, or multiple strand having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

This finding also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches.

(5) *Comment:* "Non-operational costs" should be included in cost of production calculations, and "non-operational revenues" should be excluded from such calculations rather than used to offset "non-operational costs".

Position: Such non-operational costs were included in cost of production calculations. Non-operational revenues that could not be directly related to roller chain sales were not in fact included in our cost of production calculations.

(6) *Comment:* Selling, general, and administrative expenses should be allocated on the basis of the cost of manufacturing (materials, subcontractor costs, and fabrication), rather than sales revenues.

Position: Selling, general, and administrative expenses are properly allocated on the basis of sales revenues. General and administrative expenses are not related only to sales; however, sales are a better reflection of the total activity of a company than is cost of manufacturing.

(7) *Comment:* The Department should determine and state in this notice that administrative reviews should be conducted with respect to all unliquidated entries.

Position: All unliquidated entries which are not subject to appraisement instructions ("master lists") issued prior to January 1, 1980, are subject to the administrative review provisions of the Trade Agreements Act of 1979. The issue concerning unliquidated entries which are the subject of master lists issued prior to January 1, 1980, is currently under review by the Department. We are continuing suspension of liquidation of such entries pending a decision whether such entries must be the subject of a 751 review.

(8) *Comment:* Review of data released under an administrative protective order pertaining to three Japanese firms indicates that the Department used inappropriate methodologies by not proceedingh with an entry-by-entry analysis, by not making comparisons at the "primary level" (manufacturer's level), and by not adding the correct profit factor to constructed value computations.

Position: Our discussion of Comment #1 addresses the situation concerning entry-by-entry analyses. Our choice of the level at which our comparisons are made is based on who controls the pricing structure of sales to the United States and of sales in the home market, or, where appropriate, to third countries. In the case referenced by the petitioner, we used the prices from an exporter to the United States and in the home market because the exporter controlled the pricing structure. We used the appropriate profit figure in our constructed value computations for each company.

(9) *Comment:* Methods of allocation used by two manufacturers concerning certain elements of cost of production, such as general expenses, were inappropriate and could lead to understated costs of production.

Position: The Department verified that the referenced methods were an integral part of those firms' accounting systems and were, therefore, accepted as appropriate methods.

Analysis of Respondents' Comments

(10) *Comment:* Several respondents alleged that determinations by the Department of the Treasury and the International Trade Commission (previously the Tariff Commission) concerning sales at less than fair value and domestic injury were not established according to law.

Position: This section 751 proceeding is not the proper forum for this issue.

(11) *Comment:* Several respondents argued that in certain instances the Department arbitrarily deducted the highest discounts available, thus deriving the lowest possible purchase prices or exporter's sales prices.

Position: All comparisons are in compliance with the applicable statute. When certain firms chose to submit data in a format not provided for in the Department's antidumping questionnaire, e.g., a price list for U.S. sales prices, the Department proceeded with analyses based on the best information available (See discussion of Comment #1).

(12) *Comment:* Due to the lack of margins for reporterd sales of certain

firms, no "automatic" dumping margins should be applied to unreported sales.

Position: It would be inappropriate to assume that no margins existed on unreported sales. Such an assumption would encourage the submission of data only on sales with no known dumping liability (See discussion of Comment #2).

(13) *Comment:* Firms should be permitted to either submit additional data on unreported sales, which were unreported due to either inadvertence or the absence of a ruling by the Department concerning the definitional scope of the finding. Firms also should be permitted to withdraw data concerning chains determined by the Department not to be within the scope of the finding.

Position: The Department will not accept additional data unless a firm can show that the failure to submit such data was due solely to a reasonable misunderstanding of the definitional scope of the finding. Data concerning chains not subject to the finding may be withdrawn.

(14) *Comment:* The Department erred in its calculation of the United States price by not accepting information from certain firms on weighted-average prices for all sales.

Position: Section 772 of the Tariff Act of 1930 ("the Tariff Act") specifically charges the Department with the responsibility of arriving at "the price". The Tariff Act precludes the use of weighted-average prices in the United States price calculations. In those instances where firms failed to provide data on an entry-by-entry basis, the Department used the best information available.

(15) *Comment:* The use of section 751 reviews by the Department for entries made prior to January 1, 1980, may deprive inporters of legal rights acquired through the act of importation prior to January 1, 1980.

Position: Administrative reviews under section 751 are required for all unliquidated entries not subject to master lists issued prior to January 1, 1980. The Department applies the substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") to entries made prior to January 1, 1980. The legal remedies available to firms subject to an administrative review under section 751 completely replac the procedural provisions of the 1921 Act for entries made prior to January 1, 1980 not subject to such master list.

(16) *Comment:* Arithmetical and methodological errors, such as the use of varying percentages to reflect general expenses in constructed value calculations, in the computation of certain exporter's sales prices, purchase prices, and constructed values resulted in inaccurate margin determinations.

Position: The Department has reviewed the specific instances cited by various respondents. Where appropriate, we made adjustments to the final results of our analyses. We adjusted the calculations for the following firms:

Honda Motor
Daido Kogyo
Enuma Chain
Meisei Trading
Pulton Chain
Sugiyama/HKK America (Importer).

(17) *Comment:* Certain chains are not subject to the finding because no manufacturer in the United States produces such chain.

Position: Antidumping orders or findings are, in part, based upon determinations concerning injury, the likelihood of injury to an industry, or determinations concerning the prevention of establishment of an industry in the United States. The inclusion of specific items in, or their exclusion from, the scope of a finding or order is not dependent on the presence or absence of manufacturing facilities in the United States for the production of specific types of merchandise. Further, the issue really addresses the question of whether domestic producers of a like product are being materially injured. Accordingly, the International Trade Commission, not the Department, is the proper forum for addressing this issue.

(18) *Comment:* Margins computed for certain firms should be adjusted by the use of volume data to reflect weighted-average margins rather than average margins.

Position: When firms failed to submit data with their response to the antidumping questionnaire which would have enabled the Department to compute a weighted-average margin, the Department used the best information available to determine the firm's margin. It would be inappropriate to consider additional data at this time.

(19) *Comment:* Final revocations should be pursued in light of the tentative revocations listed in the preliminary notice and the results of this administrative review.

Position: Our position remains unchanged from the notice of preliminary results. Since our analysis indicated that margins exist for three of the four firms for which tentative revocations were published, no further action concerning revocation proceedings will be initiated for these firms. Our review of Honda Motor Co., Ltd. (Honda) indicated *de minimis* margins for the period October 1978 through September 1979. In a subsequent notice the Department will publish its proposed disposition of the revocation issue as it pertains to Honda.

(20) *Comment:* The Department should determine a firm's margin to be the amount actually computed, and not round a percentage to the nearest whole number.

Position: We agree, and none have been rounded to whole numbers.

(21) *Comment:* The list of companies stated in the preliminary notice includes firms that need not be separately reported.

Position: The companies listed in the preliminary notice represent the most complete information available to the Department to reflect sales activity for roller chain, other than bicycle, from Japan.

(22) *Comment:* Certain firms, termed "non-responsive" by the Department, did not ship merchandise to the United States which is subject to the finding. These firms should not be subject to the margin determined by the Department for "non-responsive" firms.

Position: The Department received information from the Customs Service that these firms did ship merchandise subject to the finding during the period covered by this review. Our position concerning these firms remains unchanged.

Final Results of the Review

Based on our analysis of comments received the Department has made adjustments to the margins for seven firms. The margins in the preliminary notice remain unchanged for all other firms. However, appraisement of entries by 13 firms will continue to be suspended pending the Department's review of a level-of-trade issue.

Manufacturer/exporter	Time period	Margin (percent)
A & K Company	Apr. 1, 1979 to Mar. 31, 1980.	1.84
Aija Kikai Boeki	do	1.84
APC Corporation	do	0
Asia Machinery	do	2.00
Auto Dynamics	do	[1] 5.36
C. Itoh	May 1, 1979 to Mar. 31, 1980.	0
Central Automotive	Apr. 1, 1979 to Mar. 31, 1980.	2.00
Cherry Industrial	do	[1] 20.00
Daido Enterprising	do	2.00
Daido Kogyo	Apr. 1, 1979 to Sept. 30, 1979.	1.18
Daiho Sangyo	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Deer Island	do	43.29
Detroit Industries	do	[1] 5.36
Empire Motor	do	[1] 5.36
Enuma Chain	June 1, 1979 to Sept. 30 1979.	1.18

Manufacturer/exporter	Time period	Margin (percent)
Foe International	Apr. 1, 1979 to Mar. 31 1980.	[1] 1.84
Fuji Lumber	do	0
Fuji Motors (Zenoah)	do	[1] 5.36
Fuji Seiko	do	43.29
Fukoku	do	[1] 5.36
Hajima	do	[1] 5.36
Harima Enterprise	do	0
Henry Abe	do	[1] 5.36
Hic Trading Co., Ltd.	do	0
Hiro Enterprise	do	0
Hitachi Metals/Hitachi International (Importer).	do	2.76
Hitachi Metals/All other importers.	do	1.84
HKS Japan	do	[1] 20.00
Hodaka Kogyosho	do	[1] 5.36
Honda Motor	Oct. 1, 1978 to Sept. 30, 1979.	0.096
I & OC	Apr. 1, 1979 to Mar. 31 1980.	5.36
Iketoku	do	[1] 5.36
Izumi Chain	Oct. 1, 1979 to Mar. 31, 1980.	6.93
Jeico	Apr. 1, 1979 to Mar. 31, 1980.	0
Kago Kogyo (Kaga Ind.).	do	0
Kaga/APC	do	0
Kaga Kokan/TK Products.	do	1.00
Karl Mayer Textile	do	[1] 0
Kashima Trading	do	43.29
Katayama	do	43.29
Kawasaki	Sept. 1, 1978 to Aug. 31, 1979.	1.00
Kokusai	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Maruberol	do	0
Maruka Machinery	do	[1] 5.36
MC International	do	[1] 5.36
Meitho Yoko	do	43.29
Meiser Trading	Apr. 1, 1979 to Sept. 30, 1979.	1.16
Moiwa Trading	Apr. 1, 1979 to Mar. 31, 1980.	[1] 3.00
Mitsui	do	[1] 13.40
Mitsubishi	do	[1] 5.36
Mitsubishi Boeki	do	[1] 34.80
Mitsubishi Motors	Oct. 1, 1975 to Mar. 31, 1978.	[1] 5.36
Myesaki Shokai	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Naniwa Kogyo	do	43.29
Nankai Buhin	do	[1] 5.36
Nickel & Lyons	do	[1] 5.36
Nippo Buhin	do	[1] 5.36
Nissan Motor	Apr. 1, 1979 to Nov. 30, 1979.	0
Nissei Co.	Apr. 1, 1979 to Mar. 31, 1980.	[1] 12.80
Nissho-Iwai	Apr. 1, 1979 to Oct. 31, 1979.	0
Normura Shoji	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Oriental Chain	July 1, 1979 to Dec. 31, 1979.	0
Osaka Buhin	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Pulton Chain	do	0
Pulton/Hic Trading	do	0
Pulton/IOC	do	0
Refac International	do	[1] 5.36
Rocky Asia	Oct. 1, 1979 to Mar. 31, 1980.	6.93
Royal Industries	Apr. 1, 1979 to Mar. 31, 1980do.	2.00
Ryobi Limited	do	2.00
Sanko Co.	do	9.37
Schneider Engineering	do	2.00
Shima Trading	Oct. 1, 1979 to Mar. 31, 1980.	6.99
Shinyei Kaisha	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
Shinyo Ind	do	43.29
Sugiyama/Fuji Lumber	do	0
Sugiyama/Harima Entpz.	do	0
Sugiyama/HKK America (Importer).	Jan. 1, 1979 to Mar. 31, 1980.	15
Sugiyama/I&OC	Apr. 1, 1979 to Mar. 31, 1980.	0
Sugiyama/All other importers.	do	0
Sumitomo Shoji Kaisha	do	[1] 5.36
Suzuki Motor	Apr. 1, 1979 to Aug. 31, 1979.	0
Tabard	Apr. 1, 1979 to Mar. 31, 1980.	[1] 43.29
Taikyo Sangyo	do	0
Taiyo Shokai	do	[1] 43.29
Takara Auto Parts	do	[1] 29.52
Takasago	do	[1] 5.36
Tanaka Kogyo	do	[1] 5.36
Tashiro	do	[1] 5.36
Tatsumiya Kogyo	do	2.00
Tec Engineering	do	[1] 5.36
Teijin Shoji Kaisha Ltd.	do	[1] 5.36
TK Products	do	1.00
Tokyo Enterprise	do	[1] 5.36
Tokyo Incentive	do	[1] 5.36
Tokyo Ryuki Seizo	do	0
Tosho	do	[1] 5.36
Toyo Kogyo	do	0
Toyo Menka Kaisha	do	[1] 5.36
Toyota Motor Sales	do	43.29
Tsubakimoto Chain	Apr. 1, 1979 to Nov. 30, 1979.	0
Tsujimoto Shokai	Apr. 1, 1979 to Mar. 31, 1980.	[1] 5.36
United Trading Co., Ltd	do	[1] 5.36
Universal Trading	do	[1] 5.36
Y-K Brothers Shokai	do	[1] 5.36
Yamaha Motor	Apr. 1, 1979 to May 31, 1979.	2.00
Yamakyu Chain	Apr. 1, 1979 to Mar. 31, 1980.	9.37
Yoshida Auto	do	43.29
Yoshimura	do	[1] 5.36
Zushi Industries	do	[1] 5.36

[1] No shipments during period.

For all exporters for which we have completed our review, the Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries made with purchase dates or export dates, as appropriate, during the time periods involved. Individual differences between United States price and foreign market value or, where appropriate, purchase price or exporter's sales price and foreign market value and constructed value, may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments of roller chain, other than bicycle, entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Because the weighted-average margins for Honda and Sugiyama/HKK America are *de minimis*, the Department shall not require cash deposits on their shipments. This requirement, and the waiver for Honda and Sugiyama/HKK America, shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of April, 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

John L. Evans,

Acting Deputy Assistant Secretary, Import Administration.

August 27, 1981.

[FR Doc. 81-25824 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Approval of Federal Information Processing Standard; Optical Character Recognition (OCR) Character Positioning

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On October 17, 1980, notice was published in the **Federal Register** (45 FR 68993-68994) that a standard for Optical Character Recognition (OCR) Character Positioning was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 89. The provisions of the standard are effective on September 4, 1981.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW, Washington, D.C. 20230.

The objective of this standard is to facilitate effective information interchange when the information is

recorded in a manner that can be recognized by computer recognition systems. This standard specifies the nominal position with allowable tolerances, of OCR characters, Styles A and B as specified in FIPS PUB 32-1, in relation to their location to other machine readable characters or sensed marks and to the document edges.

The approved FIPS contains two portions: (1) an announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. With certain qualifications noted in the announcement portion, this FIPS represents the adoption of American National Standard X3.93M-1981, Optical Character Recognition (OCR) Character Positioning.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Thomas Bagg, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3723.

Dated: August 28, 1981.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 89—Announcing the Standard for Optical Character Recognition (OCR) Character Positioning

September 4, 1981.

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations.

Name of Standard. Optical Character Recognition (OCR) Character Positioning (FIPS PUB *89*).

Category of Standard. Hardware Standard, Character Recognition.

Explanation. This standard specifies the nominal position with allowable tolerances, of OCR characters, Styles A and B as specified in FIPS PUB 32-1, in relation to their location to other machine readable characters or sensed marks and to the document edges.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard for Optical Character Recognition (OCR) Character Positioning (ANSI X3.93M-1981).

Related Documents. a. American National Standard for Character Set for Optical Character Recognition (OCR-A), ANSI X3.17-1981.

b. American National Standard for Character Set for Optical Character Recognition (OCR-B), ANSI X3.49-1975.

c. Federal Information Processing Standards Publication (FIPS PUB) 32-1, Character Sets for Optical Character Recognition (OCR).

d. Federal Information Processing Standards Publication (FIPS PUB) 40, Guideline for Optical Character Recognition Forms.

e. Federal Information Processing Standards Publication (FIPS PUB) 85, Optical Character Recognition (OCR) Inks.

Applicability. This standard is applicable to the acquisition of printers, readers, and printed forms which use OCR Style A or B characters as specified in FIPS PUB 32-1:

(1) where the interchange of machine readable information between different systems may be required, or

(2) where these products are produced by different manufacturers.

Users of existing equipment and printed forms are encouraged to employ this standard. Equipment and forms not in accordance with this standard should be evaluated periodically by Federal agencies because printers, readers, or forms with improperly positioned characters may seriously reduce productivity by causing misreadings (errors).

Specifications. This standard adopts in whole the American National Standard for Optical Character Recognition (OCR) Character Positioning (ANSI X3.93M-1981).

Qualifications. None.

Implementation Schedule. All applicable equipment and printed forms ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below.

Exceptions to this standard are made in the following cases:

a. For equipment installed or on order, or for printed forms in stock or on order prior to the effective date of this standard.

b. Where procurement actions are in the solicitation phase (i.e., Requests for Proposals or Invitations for Bids have been issued) prior to the effective date of this standard.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment or forms unless it has already obtained such approval.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 89 (FIPS-PUB 89), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 81-25699 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Fishery Market News Reports; Annual Subscription Rates

Notice is hereby given that annual subscription rates for Fishery Market News Reports will be increased as of November 1, 1981. The subscription rate for the full service report (issued Monday, Wednesday, and Friday) will be $45 per year and the weekly summary, including the Friday report, will be $20 per year. Current rates are $35 and $15 respectively. The rates for

changing from a weekly to a full service report during a subscription year are listed below:

1st month	$25
2nd month	23
3rd month	21
4th month	19
5th month	17
6th month and after	15

No changes will be made from a full service report to a weekly summary. These rates are in effect for all new subscriptions and renewed subscriptions on or after November 1, 1981. Persons subscribing to these reports should make checks (drawn on a U.S. bank) and money orders, in U.S. dollars, payable to:

U.S. Department of Commerce, NOAA

Mail check or money order to the National Marine Fisheries Service office that issues the report being subscribed to (see below):

(Blue Sheet), Room 10, Commonwealth Pier, Boston, MA 02210
(Green Sheet), 201 Varick Street, 11th Floor, New York, NY 10014
(Goldenrod Sheet), 546 Carondelet Street, Room 412, New Orleans, LA 70130
(Buff Sheet), 300 South Ferry Street, P.O. Box 3266, Terminal Island, CA 90731
(Pink Sheet), 7600 Sand Point Way N.E., Bin C15700, Seattle, WA 98115

DATE: These amended rates become effective November 1, 1981.

FOR FURTHER INFORMATION CONTACT: B. G. Thompson, Acting Chief, Resource Statistics Division—F/SR1, National Marine Fisheries Service, Washington, D.C. 20235 (202) 634–7366.

SUPPLEMENTARY INFORMATION: Effective July 1, 1975, the National Marine Fisheries Service (NMFS) made the Fishery Market News Reports available on a paid subscription basis (40 FR 16116, April 9, 1975). Subscription rates for the reports were established to recover the expenses for printing, distribution, and mailing of the reports, depreciation of equipment used to produce the reports, associated overhead charges, and postage. Collection of the data is concluded through the use of appropriated funds.

Subscription rates for Fishery Market News Reports have not increased since the subscription system began July 1, 1975. Increases in postage rates during this year interval have been offset by efficiencies in producing the reports. However, the recent postage increase, and increases in costs of supplies and labor no longer can be offset by changes in operations. The rates being charged represent the cost of the government for the printing, handling, distribution, and postage of the Market News Reports.

Dated: August 31, 1981.

Robert K. Crowell,

Acting Marine Fisheries Service.

[FR Doc. 81-25986 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Additional Official of the Government of Pakistan Authorized To Issue Export Visas for Certain Cotton Textiles and Textile Products

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adding the name of Mirza Sadiq Husain to the list of officials authorized by the government of Pakistan to issue visas for cotton textiles and cotton textile products exported to the United States.

SUMMARY: Pursuant to the export visa requirement established between the Governments of the United States and Pakistan (37 FR 13365), as amended, concerning certain cotton textiles and cotton textile products produced or manufactured in Pakistan and exported to the United States, the Government of Pakistan has notified the United States Government that Mirza Sadiq Husain, Deputy Director of the Export Promotion Bureau, Government of Pakistan, Karachi, has been authorized to issue export visas in addition to those officials previsouly named. A complete list of authorized officials follows this notice.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

Edward Gottfried,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of Pakistan Authorized to Issue Export Visas for Certain Cotton Textiles and Cotton Textile Products Exported to the United States.

Abid Javed Akbar
Shaikh Bashir Ahmed
Shafiq Ahmad Bajwa
M. Y. Bhutta
Mirza Sadiq Husain
Muhammad Ashraf Khan
Zahid Hussain Khan
Taj Mohammad Khan
M. Zafar Umar Khan
Abdul Wahab Khan
Abdul Malik
Allah Rakha
S. M. H. Tirmizi

[FR Doc. 81-25990 Filed 9-3-81; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 4, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 26, 1981 and April 17, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 33069 and 46 FR 22420) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committe has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1981:

Class 2540

Cushion Assembly, Back Rest, 2540–00–737–3308

Class 7920

Towel, Paper, 7920–00–823–9772 (For GSA Regions 4,6,7 only)

Class 8415

Hood, Anti-Flash, 8415–00–275–3159

C. W. Fletcher,

Executive Director.

[FR Doc. 81-25909 Filed 9-3-81; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Deletions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Deletions from procurement List.

SUMMARY: This action deletes from Procurement List 1981 a commodity produced by and a service provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 4, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 2, 1981 and June 26, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 34620 and 46 FR 33069) of proposed deletions from Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity and service are hereby deleted from Procurement List 1981:

Class 8465

Club, Policeman's, 8465–00–641–8551

SIC 7641

Furniture Rehabilitation, Metal and Wood Portions, Eielson Air Force Base, Alaska and Fairbanks, Alaska, plus 30-mile radius

C. W. Fletcher,

Executive Director.

[FR Doc. 81–25902 Filed 9–3–81; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1981; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1981 services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: OCTOBER 7, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 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. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or severely handicapped.

It is proposed to add the following services to Procurement List 1981, November 12, 1980 (45 FR 74836):

SIC 7349

Janitorial/Custodial Services, Ellsworth Air Force Base, South Dakota

SIC 7389

Commissary Shelf Stocking and Custodial Services, Naval Air Station, Moffett Field, California, Mare Island Naval Shipyard, California

C. W. Fletcher,

Executive Director.

[FR Doc. 81–25901 Filed 9–3–81; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Notice of System of Records: Change

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of change to system of records notice.

SUMMARY: The Office of the Secretary of Defense proposes to change the system notice for one system of records subject to the Privacy Act of 1974. The specific change is set forth below.

DATES: This notice shall be changed as proposed without further notice on October 5, 1981, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register.**

FR Doc. 81–897 (46 FR 6427) January 21, 1981
FR Doc. 81–5568 (46 FR 12772) February 18, 1981
FR Doc. 81–6246 (46 FR 14031) February 25, 1981
FR Doc. 81–6491 (46 FR 14154) February 26, 1981
FR Doc. 81–7597 (46 FR 16114) March 11, 1981
FR Doc. 81–8041 (46 FR 16926) March 16, 1981
FR Doc. 81–8127 (46 FR 17074) March 17, 1981
FR Doc. 81–8281 (46 FR 17243) March 18, 1981
FR Doc. 81–8282 (46 FR 17243) March 18, 1981
FR Doc. 81–10201 (46 FR 20260) April 3, 1981
FR Doc. 81–10722 (46 FR 21228) April 9, 1981
FR Doc. 81–11473 (46 FR 22257) April 16, 1981
FR Doc. 81–11765 (46 FR 22632) April 20, 1981
FR Doc. 81–12892 (46 FR 23967) April 29, 1981
FR Doc. 81–13225 (46 FR 24620) May 1, 1981
FR Doc. 81–14226 (46 FR 26365) May 12, 1981
FR Doc. 81–14406 (46 FR 26676) May 14, 1981
FR Doc. 81–14909 (46 FR 27373) May 19, 1981
FR Doc. 81–14975 (46 FR 27373) May 19, 1981
FR Doc. 81–15770 (46 FR 28470) May 27, 1981
FR Doc. 81–17763 (46 FR 31306) June 15, 1981
FR Doc. 81–19042 (46 FR 33074) June 26, 1981
FR Doc. 81–20404 (46 FR 35963) July 13, 1981
FR Doc. 81–21228 (46 FR 37306) July 20, 1981
FR Doc. 81–21498 (46 FR 37751) July 22, 1981
FR Doc. 81–23482 (46 FR 40788) August 12, 1981

This proposed change is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of new or altered system reports.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 31, 1981.

DMRA&L 15.0

SYSTEM NAME:

Reports of Defense Related Employment (46 FR 6427, January 21, 1981).

CHANGES:

RETENTION AND DISPOSAL:

Delete the entry under the above heading, and insert:

"Retire to WNRC when three years old. Destroy when 10 years old.".

DMRA&L 15.0

SYSTEM NAME:

Reports of Defense Related Employment

* * * * *

RETENTION AND DISPOSAL:

Retire to WNRC when three years old. Destroy when 10 years old.

* * * * *

[FR Doc. 81–25853 Filed 9–3–81; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-020; ERA Case Nos. 55096-9211-51-21, 24]

Federal Paper Board Co., Inc.; Powerplant and Industrial Fuel Use Act; Acceptance of Exemption Requests

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Exemption Requests.

SUMMARY: On July 20, 1980, Federal Paper Board Company, Inc. (FPB) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for both a temporary public interest exemption and a permanent cogeneration exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum or natural gas as a primary energy source in new powerplants and prohibit the construction of new powerplants without alternate fuel capability. The procedure for petitioning and criteria for a temporary public interest exemption and for a permanent cogeneration exemption are published, respectively, at 10 CFR 501.3 and 503.25, and at 10 CFR 503.37 (interim rule, 44 FR 28950).

FPB proposes to install a 20.1 MW natural gas-fired combustion turbine, with oil back-up, and a 3.5. MW steam turbine generator to produce electricity and hot water heat for the Company's production process.

FUA imposes statutory prohibitions against the construction of new powerplants without alternate fuel capability and the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested exemptions.

ERA has accepted these petitions pursuant to 10 CFR 501.3 and 501.63. In accordance with the provisions of section 701(c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before October 19, 1981. A request for a public hearing must be made by any interested person on or before October 19, 1981.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA-FC-81-020 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012B, Washington, D.C. 20461, Phone (202) 653-4208.

Douglas Mitchell, Office of General Counsel, Room 6B-178 Forrestal Building, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE), on May 15, 1979, and May 17, 1979, published in the **Federal Register** (44 FR 28530, 28950), and interim rule to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). A final rule published on June 6, 1980 (45 FR 38276), became effective August 5, 1980, but those sections of the interim rule relating to the cogeneration exemption (44 FR 28994) remain in effect. FUA prohibits the construction of new powerplants without alternate fuel capability and the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption has been granted by ERA.

FPB plans to install a 23.5 MW gas-fired (with oil backup) cogeneration powerplant to produce electricity and steam at its Commerce, California facility. Two existing boilers would be shut down once the cogeneration facility becomes operational. The cogeneration facility will consist of a 20.1 MW General Electric LM 2500 gas turbine generator connected to a 3.5 MW steam turbine and a heat recovery steam generator. The gas turbine has a design heat input rate of 195.6 MM BTU's per hour. The heat recovery steam boiler will receive no supplemental firing. All of the electricity (approximately 23.5 MW) produced by the gas turbine will be sold to local utilities. FPB will then purchase approximately 3.5 MW of electricity from Southern California Edison Company. This electricity, along with the heat exhaust from the turbine will be utilized to provide power and steam to FPB's plant. The cogeneration facility will be treated as a powerplant because more than half of its annual electric power generation will be sold. FPB estimates that the cogeneration facility will consume up to 1,643,040 MM BTU's of natural gas per year (195.6 MM BTU's per hour x 8400 operating hours), and expects that it will begin commercial operation in the fall of 1982. In accordance with 10 CFR 503.37, FPB petitioned ERA for a permanent cogeneration exemption from the provisons of FUA to enable it to burn natural gas as a primary energy source in the facility on the basis of net oil and gas savings and on the grounds that it would be in the public interest to grant the exemption.

FPB has also petitioned for a temporary public interest exemption on the ground that construction and operation of this unit is needed to maintain industry in urban areas in the face of soaring costs of energy to the plant.

FPB has furnished information required by § 502.8 (Mixtures General Requirement), § 502.11 (Petroleum and Natural Gas Consumption), § 502.12 (Conservation Measures), and § 502.13 (Environmental Impact Analysis) of the Interim Rules.

ERA retains the right to request additional relevant information from FPB at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. Acceptance of the petitions by ERA does not consititute a determination that FPB is entitled to the exemptions requested.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: ERA, Room B-110, 2000 M Street NW., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C. on August 28, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-25949 Filed 9-3-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51312, TSH-FRL 1928-6]

Certain Chemicals

Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before the manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seven PMN's and provides a summary of each.

DATES: Written comments by: PMN 81–405 and 81–406, October 22, 1981. PMN 81–407, 81–408, and 81–409, October 23, 1981. PMN 81–410 and 81–411, October 24, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS–51312]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–755–5687).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81–405	Kathleen Ehrensberger	202-426-8815	E-222
81–406	Carrie Berlin	202-426-8815	E-222
81–407	Kathleen Ehrensberger	202-426-8815	E-222
81–408	George Bagley	202-426-2601	E-210
81–409	Rose Allison	202-426-8815	E-222
81–410	George Bagley	202-426-2601	E-210
81–411	Mary Cushmac	202-426-0503	E-229

Mail address of notice managers: Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMN's received by EPA:

PMN 81–405

Close of Review Period. November 21, 1981.

Manufacturer's Identity. C. J. Osborne Chemicals, Inc., P.O. Box 1310 Merchantville, NJ 08109.

Specific Chemical Identity. Coconut-diethylene glycol-adipicisophthalic resin.

Use. The manufacturer states that the PMN substance will be used as a flexible coating.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	21,800	27,300
2d year	27,300	45,400
3d year	45,400	87,300

Physical/Chemical Properties

Solids—100%.
Viscosity—U–X
Acid number—10–20
Color—3 maximum
Weight per gallon—9.85 ± 0.1.
Solvent—None.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that workers will not be exposed to the new polymer under standard operations since manufacture will be carried out in a closed system. The only possible exposure would be incidental skin contact during sampling and discharging the material into drums.

Environmental Release/Disposal. No data were submitted.

PMN 81–406

Close of Review Period. November 21, 1981.

Importer's Identity. Duolite International, Inc., 800 Chestnut Street, Redwood City, CA 94063.

Specific Chemical Identity. Benzenemethanamine, benzene-ethenyl-N-methano-phosphoric acid/disodium salt, polymer with diethyl benzene.

Use. The importer states that the PMN substance will be used in a selective removal of multivalent cations from monovalent cation-containing solutions.

Import Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	40,000
2d year	30,000	80,000
3d year	50,000	150,000

Physical/Chemical Properties

Matrix—Crosslinked polystrene.
Physical form—Spherical, beige-colored beads.
Functional group—$NH\ Ch^{2}\text{-}PO_3Na_2$ (salt form).
Total exchange capacity (eg/L)—1.5.
Specific gravity (H_2O = 1)—About 1.12 (Na + form).
Bulk density (kg/L)—About 0.75.
Particle size (mm)—0.3–1.2.
Ionic form—NA_+ of PO_3H_2.
Moisture content (%)—60–65.
Chemical resistance—Insoluble in water, dilute acids and bases, and common solvents.

Toxicity Data. No data were submitted.

Exposure. The importer states that the only route of exposure, although unlikely, would be dermal contact during loading the holding tank on initial startup, or later during unloading for disposal when the resin becomes exhausted.

Environmental Release/Disposal. No data were submitted.

PMN 81–407

Close of Review Period. November 22, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyether polyaminoalcohol.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a totally enclosed industrial application.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. No data were submitted.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81–408

Close of Review Period. November 22, 1981.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkenyl pyridine.

Use. Claimed confidential business information.

Import Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	<1	1
2d year	<1	10
3d year	<1	10

Physical/Chemical Properties

Specific gravity—0.953–0.973 @ 25°C.
Solubility in water—Slightly soluble.
Appearance—Pale to light yellow.
Form—Liquid.
Refractive Index @ 25°C—1.532–1.540.
Flash point—Above 100°F.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—2.8 g/kg.

Acute dermal toxicity LD_{50} (rabbits)—>2 g/kg.

Primary skin irritation, 100% concentration (rabbits)—Not a primary irritant.

Primary eye irritation, 100% concentration (rabbits)—Not a primary occular irritant.

Human Repeated Insult Patch Test 100% concentration—No irritation, no sensitization.

Photosensitization in human subjects, 10% concentration—Not a photosensitizer.

Exposure. The importer states that the chemical substance will only be imported as a low-concentration component (less than 100 ppm). At these concentrations, its vapor pressure is neglible and the concentration in air and worker exposure are insignificant.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to air less than 1 hr/day, 100 days/yr.

PMN 81-409

Close of Review Period. November 22, 1981.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Manufacturing site—Middle Atlantic region Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Polymer of an alkenoic acid, alkyl alkenoate and a substituted alkyl alkenoate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	0	330,000
2d year	0	660,000
3d year	0	2,000,000

Physicial/Chemical Properties:

Solids @ 105°F—68.8%

Solids @ 150°F—67.8%

Viscosity—8.12 stokes

Color—3—

Density—8.28 lbs/gal

Flash point—109°F

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that exposure during manufacture will involve potential skin and eye contact for chemical industry employees with a frequency of once a week or less. Exposure may occur during extraction and testing of samples for quality control or during filling of shipping containers. Exposure during processing will involve potential skin, eye and inhalation contact for non-chemical industry employees frequently during working hours. Workers will be exposed to the new substance during the filling of the thinning tank, during the filling of shipment containers and during the cleaning of filtration equipment. Its use will involve no potential for direct contact for consumers (as a formulated mixture). Consumer use will involve an infrequent potential for skin contact with an article containing the new substance in a cured solid state.

Environmental Release/Disposal. The manufacturer states that trace amounts of the solvents and entering ingredients may be released through the scrubber system. After further condensation reactor vapor passes through a tower containing a saddle type packing and a water spray. The used clean air then passes to the atmosphere. Solvent is used to cleanse the equipment as needed and is reclaimed by distillation. Sludge is incinerated.

PMN 81-410

Close of Review Period. November 23, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Salt of Bis(substituted carbomonocyclic) substituted carbopolycycle.

Use. The manufacturer states that the PMN substance will be used as a chemical intermediate.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	400	700
2d year	400	700
3d year	400	700

Physical/Chemical Properties.

Solubility distilled water—~1%

Octonal—<0.1

Melting point—>300°C

Toxicity Data.

Acute oral LD_{50}—>3,000 mg/kg

Acute dermal LD_{50}—>1,000 mg/kg

Skin irritation—Slight

Eye irritation—Slight

Repeated 10 day skin application—Little or no exacerbation

Skin sensitization—None

Repeated 2-week feeding study (rats) 0.1% and 1.0% in diet—There were no significant effects on weight gain, feed intake, clinical chemistry, organ weights, gross and histopathology

Environmental Test Data.

TOD—1.86 g/g

COD—1.95 g/g

BOD_5—0.025 g/g

BOD_{20}—0.035 g/g

Secondary Waste Treatment—A solution of 300 ppm did not affect microbiological carbon metabolism

Acute Effects on Four Aquatic Species—A solution of 100 ppm showed no effect on four aquatic species

Exposure. The manufacturer states that 8 workers could experience dermal and inhalation exposure 1 hr/day, 1 day/yr. Exposure could occur during manual and mechanical transfer operations.

Environmental Release/Disposal.

Production Process Equipment. Emissions of vapor and dusts are scrubbed before release to the atomsphere in accordance with applicable state regulations. Wastewater is collected in decanting sumps where heavy layers and light layers are removed for incineration; the clarified waste water is treated in a wastewater treatment system. Liquid wastes containing combustible organics are collected and transported to an incinerator. Solid wastes containing combustible chemicals are transported to an incinerator.

Incineration. A combustible waste incinerator operating above 1600° F burns solid and liquid wastes. Flue gases pass through high energy scrubber systems. Scrubber water and ash quench water are discharged to a wastewater treatment system. Incinerators comply with applicable federal and state regulations.

Wastewater Treatment System. Wastewater is treated in an activated sludge wastewater treatment system. Organic chemicals are oxidized and/or absorbed on the produced biological sludge. The sludge is dewatered and then burned. The treated wastewater fully complies with its National Pollution Discharge Elimination System (NPDES) permit.

PMN 81-411

Close of Review Period. November 23, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of benzene carboxylic acids and alkanediols.

Use. The manufacturer states that the PMN substance will be used as a powder coating component.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data.

Acute oral LD_{50} (rat)—>5,000 mg/kg
Acute dermal LD_{50} (rat)—>3,000 mg/kg
Primary skin irritation (rabbit)—No irritation
Primary eye irritation (rabbit)—No irritation
Acute inhalation LC_{50} (rat)—>850 mg/m^3
Skin sensitization (guinea pig)—None
Ames mutagenicity—Negative

Exposure. The manufacturer states that no worker exposure is anticipated except for accidental breakage of containers. During use little exposure is anticipated due to current practices in handling powder coatings.

Environmental Release/Disposal. The manufacturer states that there is no anticipated release to the environment except for accidental spillage.

Dated: August 28, 1981.

Denise F. Swink,

Acting Director for Management Support Division.

[FR Doc. 81-25906 Filed 9-3-81; 8:45 am]
BILLING CODE 6560-31-M

[OPP-50547, PH-FRL-1928-5]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

36638-EUP-3. Albany International, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 738 pounds of the pheromones (Z)-9-tetradecenal and (Z)-11-hexadecenal on cotton to evaluate control of the tobacco budworm. A total of 15,000 acres are involved. The program is authorized only in the States of Arizona, Arkansas, California, Mississippi, and Texas. The experimental use permit is effective from July 10, 1981 to July 10, 1982. A temporary exemption from the requirement of a tolerance for residues of the active ingredients in or on cottonseed has been established. (Franklin Gee, PM 17, Rm. 401, CM #2, (703-557-7028))

36638-EUP-5. Albany International, 110 A St., Needham Heights, MA 02194. This experimental use permit allows the use of 5.4 pounds of the pheromones (Z)-4-tridecen-1-yl acetate and (E)-4-tridecen-1-yl acetate on tomatoes to evaluate control of tomato pinworms. A total of 40 acres are involved. The program is authorized only in the States of Arizona and California. The experimental use permit is effective from July 20, 1981 to July 20, 1982. A permanent exemption from the requirement of a tolerance for residues of the active ingredients in or on tomatoes has been established (40 CFR 180.1064). (Franklin Gee, PM 17, Rm. 401, CM #2, (703-557-7028))

8340-EUP-6. American Hoechst Corporation, Route 202-206 N., Somerville, New Jersey 08876. This experimental use permit allows the use of 60 pounds of the insecticide [1R[1(S*)3(RS*)]]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl)cyclopropanecarboxylic acid α-cyano-3(3-phenoxylphenyl)methylester on cotton to evaluate control of various insects. A total of 200 acres are involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, North Carolina, Tennessee, and Texas. The experimental use permit is effective from July 1, 1981 to July 1, 1982. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Franklin Gee, PM 17, Rm. 401, CM #2, (703-557-7028))

46157-EUP-1. Arizona Commission of Agriculture and Horticulture, 1688 W. Adams, Phoenix, AZ 85007. This experimental use permit allows the use of 110 pounds of the insecticide aldicarb and 55 pounds of the herbicide pendimethalin on guayule to evaluate control of sucking, piercing insects, and weeds. A total of 110 acres are involved. The program is authorized only in the State of Arizona. The experimental use permit is effective from July 17, 1981 to July 17, 1982. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Jay S. Ellenberger, PM 12, Rm. 400, CM #2, (703-557-7024))

464-EUP-68. Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 2,010 pounds of the insecticide chlorpyrifos on lemons and oranges to evaluate control of weevils. A total of 200 acres are involved. The program is authorized only in the State of Florida. The experimental use permit is effective from June 30, 1981 to June 30, 1982. Temporary tolerances for residues of the active ingredient in or on lemons, oranges, and in dried pulp have been established. (Jay S. Ellenberger, PM 12, Rm. 400, CM #2, (703-557-7024))

279-EUP 86. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 2591.8 pounds of the insecticide (±)cyano(3-phenoxyphenyl)methyl(±) *cis-trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate on alfalfa, almonds, apples, cabbage, cotton, field corn, grapes, lettuce, peaches, peanuts, pears, pecans, potatoes, sorghum, soybeans, sunflowers, sweet corn, tomatoes, and walnuts to evaluate control of various insects. A total of 2,022 acres are involved. The program is authorized in the States of Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin. The experimental use permit is effective from June 5, 1981 to June 5, 1983. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (Franklin Gee, PM 17, Rm. 401, CM #2 (703-557-7028))

8730-EUP-11. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 3.3 pounds of the pheromone (Z)-11-hexadecenal on artichokes to evaluate the control of the artichoke plume moth. A total of 40 areas are involved. The program is authorized only in the State of California. The experimental use permit is effective from July 14, 1981 to July 14, 1982. A temporary exemption from the

requirement of a tolerance for residues of the active ingredient in or on artichokes has been established. (Franklin Gee, PM 17, Rm. 401, CM #2, (703–557–7028))

10182–EUP–23. ICI Americas, Inc., Concord Pike & New Murphy Rd., Wilmington, DE 19897. This experimental use permit allows the use of 0.10 pound of the rodenticide brodifacoum in or around homes, industrial buildings, commercial and agricultural buildings, and inside transport vehicles and related port or terminal buildings to evaluate control of house mice, and norway and roof rats. A total of 200 sites are involved. The program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Virginia, Washington and West Virginia. The experimental use permit is effective from July 2, 1981 to July 2, 1982. (William Miller, PM 16, Rm. 403, CM #2 (557–7040))

748–EUP–17. PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203. This experimental use permit allows the use of 110 pounds of the plant growth regulator isopropyl *m*-chlorocarbanilate on tobacco to evaluate its potential as a sucker control agent in flue-cured tobacco. A total of 80 acres are involved. The program is authorized only in the States of Florida, Georgia, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from July 7, 1981 to July 7, 1983. (Robert Taylor, PM 25, Rm. 412, CM #2, (703–557–7066))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: August 25, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–25907 Filed 9–3–81; 8:45 am]

BILLING CODE 6560–32–M

[ER–FRL–1929–5]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A–104), Environemtal Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EIS's), which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's regulations (40 CFR Part 1506.9) during the week of August 24, 1981 to August 28, 1981.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from September 4, 1981 and will end on October 19, 1981. The 30-day review period for final EIS's, as calculated from September 4, 1981, will end on October 4, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA, for further information. Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street Arlington, Virginia 22209, (703) 558–8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 245–3006.

Dated: September 1, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A–104).

Department of Agriculture

FS: Final—Little Annie Ski Area Development, Pitkin County, Colorado (EIS order No. 810691).

Army Corps of Engineers

Final—Charlotte County Beach Erosion Control Project, Florida (EIS order No. 810695).

Final—Homer Small Boat Harbor Navigation Improvement Project, Alaska (EIS order No. 810696).

Final—Dickey-Lincoln School Lakes Project and Transmission Facilities, Maine, New Hampshire and Vermont (EIS order No. 810709).

Department of Housing and Urban Development

Draft—Weber West Housing Development, Mortgage Insurance, Weld County, Colorado (EIS order No. 810701).

Final—Landen Subdivision, Mortgage Insurance, Warren County, Ohio (EIS order No. 810690).

Final—Rippon Landing, Mortgage Insurance, Prince Williams County, Virginia (EIS order No. 810707).

Department of the Interior

BLM: Final—Cal-Neva Planning Unit Land Management Plan, Lassen County, California and Washoe County, Nevada (EIS order No. 810696).

BLM: Final—Big Desert Grazing Management Plan, Blaine, Bonneville, Butte and Power Counties, Idaho (EIS order No. 810697).

BLM: Final—Hualapai-Aquarius Planning Area Grazing Management Plan, Mohave and Yavapai Counties, Arizona (EIS order No. 810699).

BLM: Final—OCS Oil and Gas Lease Sale #67 and #69, Gulf of Mexico (EIS order No. 810708).

BR : Draft—Creston Generating Station and Transmission Facilities, Lincoln County, Washington; the review period for this EIS has been extended until November 30, 1981 (EIS order No. 810692).

Department of the Navy

Draft—Department of Defense Family Housing Units, San Diego County, California (EIS order No. 810705).

Department of Transportation

FHWA: Final—Ohio River Bridge Construction, Scioto County, Ohio and Greenup County, Kentucky (EIS order No. 810694).

FHWA: Final—I–30, I–820 to Summit Avenue, Tarrent County, Texas (EIS order No. 810710).

Department of State

Reestablishment of EIS availability date: Draft—International Center Modification, District of Columia—published FR August 21, 1981—based on the actual availability of this EIS, EPA has reestablished the date filed as August 25, 1981 and the end of the review period as October 19, 1981 (EIS order No. 810650).

Environmental Protection Agency

EPA4: Draft—Hardee County Phosphate Mining NPDES Permit, Florida; the review period for this EIS has been extended until October 30, 1981 (EIS order No. 810706).

EPA5: Draft—Nettle Lake Area Wastewater Treatment System, Case Study #6, Williams County, Ohio (EIS order No. 810703).

EPA5: Final—St. Croix and Taylor Falls Wastewater Treatment Facilities, Polk County, Wisconsin and Chicago County, Minnesota (EIS order No. 810700).

EPA6: Draft—Twining Wastewater Treatment Facilities, Taos County, New Mexico; the review period for this EIS has been extended until November 3, 1981 (EIS order No. 810704).

Federal Energy Regulatory Commission

Draft—Red Lake Salt Cavern Gas Storage Project, Mohave County, Arizona (EIS order No. 810693).

[FR Doc. 81-25884 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-1929-6]

Intent To Prepare an Environmental Impact Statement; Gulf of Mexico

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) for offshore platform hazardous waste facility.

PURPOSE: EPA has identified a need to prepare an EIS and publishes this Notice of Intent in order to allow interested parties to input the EIS process.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad Kleveno, Project Monitor, Hazardous Response Support Division (WH-548A), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone: 202/245-3048.

SUMMARY: The U.S. EPA proposes to prepare an EIS for the proposed offshore platform hazardous waste facility in the Gulf of Mexico. This action is undertaken by EPA pursuant to the authorities of Section 102(C) of the Marine Protection, Research and Sanctuaries Act which authorizes EPA to designate sites and times for ocean waste disposal. The purpose of the action is to combine an opportunity to augment both the long and short term capacities for disposal of hazardous wastes in the United States with an opportunity to obtain a unique, and possibly suitable, disposal site at no cost to the Federal Government. The action involves the location of a high temperature incinerator on an abandoned oil platform in the Gulf of Mexico.

EPA has conducted meetings with Federal and State representatives. Any persons, organizations and governments interested in being placed on the mailing list to receive information and the EIS as it becomes available, should contact the Project Monitor identified above. Written responses to this Notice will be accepted until September 25, 1981.

Dated: September 1, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities.

[FR Doc. 81-25985 Filed 9-3-81; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-521; File No. 21278-CD-P-1-80]

Continental Telephone Co. of California; Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted August 6, 1981.

Released August 14, 1981.

In re Application of Continental Telephone Company of California for a construction permit for an additional frequency on 152.75 MHz for Station KMM670 in the Domestic Public Land Mobile Radio Service near Garberville, California.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, is the captioned application of Continental Telephone Company of California (Continental). This application has neither been protested nor is it electrically mutually exclusive with any other application. However, our review of this application has raised a question concerning whether Continental has demonstrated a need for an additional frequency for Station KMM670. We find the applicant to be otherwise qualified.

2. The application includes a traffic loading study pursuant to Section 22.516 of our Rules in an attempt to demonstrate a need for the additional two-way frequency it requests. However, the loading study does not show sufficient traffic to justify an additional frequency. The traffic loading study shows a probability of blocking of .46 for one channel. As a result, we will designate an issue as to whether the applicant has adequately demonstrated a need for an additional frequency.

3. Accordingly, it is ordered, That the application of Continental Telephone Company of California, is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issue:

(a) To determine whether applicant for Station KMM670 has demonstrated a need for an additional frequency.

4. It is further ordered, That the hearing shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

5. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to this proceeding.

6. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for a hearing and present evidence on the issue specified in this Memorandum Opinion and Order.

7. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Sheldon M. Guttmann,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-25939 Filed 9-3-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-598 File No. 21090-CD-P-(2)-81 and CC Docket No. 81-599 File No. 21672-CD-P-(2)-81]

Edward C. Smith, d.b.a. Answerite Professional Telephone Service and Repeater Supply Corp.; Applications for Hearings

Adopted August 25, 1981.

Released August 26, 1981.

In re Applications of Edward C. Smith d.b.a. Answerite Professional Telephone for construction permit for a new two-way station on frequencies 454.025 MHz and 454.100 MHz in the Domestic Public Land Mobile Radio Service at Daytona Beach, Florida and Repeater Supply Corporation for construction permit for a new two-way station on frequencies 454.025MHz and 454.100 MHz in the Domestic Public Land Mobile Radio Service at Daytona Beach, Florida.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Edward C. Smith d.b.a. AnsweRite Professional Telephone Service and Repeater Supply Corporation. These applications are electically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Edward C. Smith d.b.a. AnsweRite Professional Telephone Service, File No. 21090-CD-P-(2)-81 and Repeater Supply Corporation, File No. 21672-CD-P-(2)-81, are designated for

hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis; the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within 39 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the need for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the preceeding.

5. It is further ordered, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Sheldon M. Guttmann,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-25940 Filed 9-3-81; 8:45 am]

BILLING CODE 6712-01-M

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6406, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450–470 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

FEDERAL HOME LOAN BANK BOARD

[No. 81-382-B]

Proposed Fee Schedule for Federal Home Loan Bank Demand Deposit Services

Correction

In FR Doc. 81-22298 appearing at page 39031, in the issue of Thursday, July 30, 1981, please make the following changes:

(1) On page 39033, third column, under the italics heading "Demand Deposit Service Fees", in the chart of service charges, first line, the price, "$1.05" which appears under the word "paper" should be changed to read ".05."

(2) On page 39035, second column, in the chart under the heading "Federal Home Loan Bank of San Francisco", first line, the price "$0.016" which appears under the word "Fee" should be changed to read, "0.060".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities; Chemical New York Corp., et al.

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comments on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 28, 1981.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York 10045:

1. **Chemical New York Corporation,** New York, New York (financing and insurance activities; Georgia): to continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of making direct loans, purchasing installment sales finance contracts, and acting as agent or broker for the sale of credit life, accident and health insurance and credit property and casualty insurance. These activities will be conducted from an office in Atlanta, Georgia, servicing Cobb County and the cities of Marietta and Smyrna. This application is for relocation of an office.

2. **Citicorp,** New York, New York (consumer finance and insurance activities; Georgia): to relocate two offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., from locations in Atlanta and Smyrna, Georgia to a consolidated office at 5575 Peachtree Dunwoody Road, Atlanta, Georgia and to expand the service area of the consolidated office. The previously approved activities which will be relocated to the new office are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The service area of the consolidated office is the entire State of Georgia. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

3. **Citicorp,** New York (consumer finance and insurance activities; North Carolina, Kentucky, Tennessee, Virginia, and West Virginia): to engage *de novo* through its subsidiary, Citicorp Person-

to-Person Financial Center, Inc., in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. These activities would be conducted from an office of the subsidiary located in Richmond, Virginia serving the States of North Carolina, Kentucky, Tennessee, Virginia, and West Virginia. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

4. **Manufacturers Hanover Corporation**, New York, New York (sales finance lending, motor vehicle lending, home equity lending, and insurance activities; Alabama): to continue to hold the shares of Termplan Incorporated of Alabama ("Termplan") a wholly-owned indirect subsidiary, after Termplan establishes two *de novo* offices from which Termplan would engage in the activities of purchasing installment sales finance contracts, and acting as agent or broker for the sale of single credit life insurance and credit accident and health insurance which is directly related to such loans and extensions of credit; and from which Termplan would engage in purchasing motor vehicle sales finance contracts, and acting as agent or broker for the sale of single credit life insurance; and from which Termplan would engage in the activities of arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single credit life insurance which is directly related to such loans and extensions of credit. Tempco Life Insurance Company would reinsure such credit life and accident and health insurance. These activities would be conducted from two *de novo* offices. The first office will be located in Montgomery, Alabama, serving the Counties of Coosa, Chilton, Tallapoosas, eastern Perry, western Lee, Autauga, Elmore, Macon, Montgomery, Bullock, Pike, Crenshaw, northern Butler, Lowndes, eastern Dallas, and eastern Wilcox. The second *de novo* office will be located in Homewood, Alabama, serving the Counties of Cullman, Blout, eastern Etowah, southeastern Winston, Walker, Jefferson, Saint Clair, eastern Fayette, eastern Tuscaloosa, Shelby, Talladega, southwestern Clay, northwestern Coosa, northern Chilton, Bibb, and western Calhoun.

5. **Manufacturers Hanover Corporation**, New York, New York, (motor vehicle lending activities and insurance activities; Louisiana): to engage through its subsidiary, Termplan Incorporated of Louisiana ("Termplan"), in purchasing motor vehicle sales finance contracts, and in the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a Termplan office located in Metairie, Louisiana, serving the following parishes: Orleans, Jefferson, St. John The Baptist, St. Charles, Plaquemines, St. Bernard, and Lafourche, Louisiana.

6. **Manufacturers Hanover Corporation**, New York, New York (home equity lending, sales finance lending, motor vehicle lending, and insurance activities; Louisiana): to continue to hold the shares of Termplan Incorporated of Louisiana ("Termplan"), a wholly-owned indirect subsidiary, after Termplan establishes a *de novo* office from which Termplan would engage in the activities of arranging, making, or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single and joint credit life insurance which is directly related to such loans and extensions of credit; and from which Termplan would engage in purchasing motor vehicle sales finance contracts, and acting as agent or broker for the sale of single and joint credit life insurance. Tempco Life Insurance Company would reinsure such credit life and accident and health insurance.

These activities would be conducted from a *de novo* office located in Baton Rouge, Louisiana, and serving the following parishes: West Feliciana, East Feliciana, St. Helena, westernern Tangipahoa, eastern St. Landry, Pointe Coupee, East Baton Rouge, Livingston, St. Martin, Iberville, West Baton Rouge, Ascension, St. John the Baptist, eastern Iberia, northern St. Mary, northwestern Lafourche, and northwestern St. Charles, Louisiana.

7. **Manufacturers Hanover Company**, New York, New York (home equity lending, and insurance activities; Tennessee): to continue to hold the shares of Termplan Incorporated of Tennessee ("Termplan"), a wholly-owned indirect subsidiary, after Termplan establishes a *de novo* office from which Termplan would engage in the activities of arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or a broker for the sale of single and joint credit life insurance which is directly related to such loans and extensions of credit. Tempco Life Insurance Company would reinsure such credit life insurance. These activities would be conducted from a *de novo* office located in Memphis, Tennessee, and serving the following counties: southern Lauderdale, western Haywood, western Hardeman, Fayette, Tipton and Shelby, Tennessee.

B. *Federal Reserve Bank of San Franciso* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (escrow activities; Washington): to engage through its subsidiary, Security Pacific Escrow, Inc., d/b/a Summit Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and dispersal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office of Security Pacific Escrow, Inc., d/b/a Summit Escrow, Inc., located in Puyallup, Washington, serving the State of Washington.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25936 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

Chaffee Bancorporation, Inc.; Formation of Bank Holding Company

Chaffee Bancorporation, Inc., Chaffee, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Chaffee, Chaffee, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 29, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25935 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

Cumberland Bancorp, Inc.; Formation of Bank Holding Company

Cumberland Bancorp, Inc., Burkesville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Cumberland, Burkesville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 27, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25934 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

Denver West Bankshares, Inc.; Formation of Bank Holding Company

Denver West Bankshares, Inc., Golden, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Denver West Bank and Trust, Golden, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25932 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

First Lafayette Bancorporation; Formation of Bank Holding Company

First Lafayette Bancorporation, Lafayette, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Lafayette, Lafayette Louisiana. The factors that are considered in acting on the applicaiton are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25936 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

First Lakefield Bancorp., Inc.; Formation of Bank Holding Company

First Lakefield BanCorporation, Inc., Lakefield, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.7 percent of the voting shares of First Trust Bank of Lakefield, Lakefield, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25937 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

Galena Bancorp, Inc.; Formation of Bank Holding Company

Galena Bancorp, Inc., Galena, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Galena State Bank and Trust Company, Galena, Illinois. The factors that are considered in acting on the application are set forth

in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 28, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-25935 Filed 9-3-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-81-12]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Public Utility Commission of Texas involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Service Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) [40 U.S.C. 481(a)(4) and 486(d)], authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Public Utility Commission of Texas involving the application of the Southwestern Bell Telephone Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: August 21, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-25921 Filed 9-3-81; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held 11 a.m. Tuesday, September 22, 1981.

ADDRESS: The meeting will be held at the Findlay Street Neighborhood House, Findlay and Baymiller Sts., Cincinnati, OH 45214.

FOR FURTHER INFORMATION CONTACT: Theresa C. Hoog, Consumer Affairs Officer, Food and Drug Administration, 1141 Central Parkway, Cincinnati, OH 45202, 513-684-3501.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 28, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25695 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

Office of Child Support Enforcement

Privacy Act of 1974: Report of New Routine Uses

AGENCY: Department of Health and Human Services, Office of Child Support Enforcement.

ACTION: New routine uses.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are proposing to establish new routine uses of information in the Privacy Act System of records entitled Federal Parent Locator System, HHS, OCSE, 09-90-0074. This proposal will permit the disclosure of home and employment addresses and Social Security Numbers from the Parent Locator System (PLS) to assist in locating absent parents and children under the following circumstances:

(1) Any State agency having an agreement under new section 463 of the Social Security Act (42 U.S.C. 663) may obtain the information for use by

(a) Agents or attorneys of that State charged with enforcing child custody determinations or with investigations, enforcement activities, or prosecutions concerning the unlawful taking or restraint of a child.

(b) Agents or attorneys of the United States who are authorized to conduct Federal investigations, enforcement proceedings, and prosecutions concerning that State with respect to the unlawful taking or restraint of a child.

(c) Courts (or agents of courts) of that State having jurisdiction to make or enforce a child custody determination.

(2) Agents and attorneys of the United States, who are authorized to conduct Federal investigations, prosecutions, and enforcement activities involving the unlawful taking or restraint of a child in cases which concern States which do not have agreements under Section 463 of the Social Security Act, may obtain address information for those purposes directly from the PLS.

As explained in the supplementary information section below, we are proposing these disclosures pursuant to recent amendments to Title IV-D of the Social Security Act and expressions of Congressional intent in those amendments.

The purpose of this Notice is to provide public awareness of the proposal and meet the technical requirements of the Privacy Act. We invite comments on these proposed routine use disclosures.

DATES: The proposed routine uses will become effective, as proposed, without further notice on October 5, 1981, unless we receive comments on or before that

date which would result in a contrary determination.

ADDRESSES: Individuals may comment on this proposal by writting to the Deputy Director, Office of Child Support Enforcement, 10th floor, 6110 Executive Blvd., Rockville, Maryland 20852, Attention: Policy Branch. The comments will be available for public inspection Monday through Friday, 8:30 AM to 5:00 PM, in Room 1010 at the above address.

FOR FURTHER INFORMATION CONTACT: Eileen Brooks, Policy Analyst, Policy Branch, 10th Floor, Office of Child Support Enforcement, 6110 Executive Boulevard, Rockville, Md. 20852, telephone (301) 443-5350.

SUPPLEMENTARY INFORMATION: In accordance with provisions of Title IV-D, Sections 453 and 454 of the Social Security Act, as amended (42 U.S.C. 653 and 654), we maintain and operate the Federal Parent Locator Service (PLS) to assist State Child Support Enforcement Agencies (IV-D Agencies) in locating absent parents for the purpose of establishing or enforcing child support obligations. Basically, Section 453 authorizes disclosure of PLS information, which is obtained from Federal and State agencies, to authorized State officials only when such information is needed to operate State and local Child Support Enforcement programs. Congress, however, recently enacted a law which calls for a broader use of PLS information as indicated below. In order to implement this law, we are proposing to adopt new routine uses under the Privacy Act.

On December 28, 1980, Congress enacted Pub. L. 96-611, the Parental Kidnapping Prevention Act of 1980. Section 9 of this Act amended Section 454 of the Social Security Act and added a new Section 463 which provides for disclosure of address information to any State agency, having an agreement with the Secretary under that new section, when such information is to be used to locate an absent parent or child for the purpose of making or enforcing a child custody determination or for investigation, prosecution or enforcement activities relating to the unlawful taking or restraint of a child. The statutory amendment clearly provides that State and Federal attorneys and agents and State courts, charged with responsibilities regarding child custody and parental kidnapping, are to be the ultimate recipients of the information.

Moreover, Section 10 of Public Law 96-611 clearly expresses congressional intent that certain provisions of the Federal Criminal Code (18 U.S.C. 1073) apply to cases involving parental kidnapping and interstate or international flight to avoid prosecution under State felony statutes.

Accordingly, we propose the following new statements of routine use:

Provide the most recent home and employment addresses and Social Security Numbers to State agencies under agreements covered by Section 463 of the Social Security Act (42 U.S.C. 663) for the purpose of locating absent parents or children in connection with activities by State courts and State and Federal attorneys and agents charged with making or enforcing child custody determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children;

Provide the most recent home and employment addresses and Social Security Numbers to agents and attorneys of the United States, involved in activities in States which do not have agreements under Section 463 of the Social Security Act (42 U.S.C. 663, for purposes of locating absent parents or children in connection with Federal investigations, enforcement proceedings or prosecutions involving the unlawful taking or restraint of children.

The disclosure of PLS information to States having agreements under Section 463 of the Social Security Act for the above purposes is specifically required as one of our responsibilities under Title IV-D, as amended by Pub. L. 96-611, and amendments to regulations which we will publish in the **Federal Register.**

Disclosure directly to Federal agents and attorneys, who would use the information in connection with investigations, enforcement, and prosecution activities in cases of unlawful taking or restraint of children involving States which do not have agreements covered by Section 463 of the Social Security Act, serves the same purpose as disclosure to State IV-D agencies which have such agreements and serves the congressional intent expressed in the Parental Kidnapping Prevention Act of 1980. For these reasons, we believe that the purposes served by the new routine uses are compatible with the purposes for which the PLS information is maintained.

All location requests from the State IV-D Agency must certify that (1) they are being made to locate an absent parent for the purpose of establishing paternity or securing child support or for locating an absent parent or child in cases of parental kidnapping or child custody determinations and for no other purpose; (2) the State IV-D agency has in effect protective measures to safeguard the personal information being transferred and received from the Federal Parent Locator Service; and (3) the State IV-D agency will use or disclose this information only for the purposes prescribed in 45 CFR 303.70 of the amended regulations. All Federal, State and contractor personnel who handle this information are required to take a non-disclosure oath. All inputs and outputs will be stored in a locked receptacle in a locked room. All outputs will be labeled "For Official Use Only" and treated accordingly.

Dated: August 24, 1981.

Robert J. Myers,

Acting Director, Office of Child Support Enforcement.

09-90-0074

SYSTEM NAME:

Federal Parent Locator System, HHS OCSE

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Child Support Enforcement
Department of Health and Human Services
6110 Executive Blvd.
Rockville, Md. 20852

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on parents being sought for the purpose of establishing or enforcing support obligations against such a parent, or for locating a parent or child in cases of parental kidnapping or child custody determinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of Absent Parent or Child, Social Security Number (when available). Date of Birth, Place of Birth, Mother's maiden name, Father's full name, State case identification number, local indentification number (State use only), State or locality originating request, date of origination, type of case (AFDC, non-AFDC full service, non-AFDC locate only, parental kidnapping), type of military service (Army, Navy, Marines, Air Force, Coast Guard, not in service, retired military (yes or no), Federal employee (yes or no), recent employer's address, known alias (last name only), date requests sent to Federal departments (SSA, IRS, DOD, NPRC, VA, RRB), date of Federal departments' responses, and indication of the type of information received; such as last home or employer address was returned, and/or a Social Security Number was returned. The actual

information returned pursuant to a request is retained in a separate file long enough to communicate that information to the State. (See Retention and Disposal section below).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 93-647
Public Law 96-611

PURPOSE(S):

Sections 453 and 454 of the Social Security Act require the Secretary to establish and conduct a Parent Locator Service to obtain information as to the whereabouts of any absent parent when such information is to be used for establishing or enforcing support obligations against such absent parent, establishing or enforcing child custody determinations, or in cases of parental kidnapping.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Federal Parent Locator Service will use and disclose information from the records maintained in this system to:

(1) Request the most recent home and employment addresses and Social Security Numbers of absent parents from any State or Federal government department, agency or instrumentality which might have such information in its records;

(2) Provide the most recent home and employment addresses and Social Security Numbers to State agencies under agreements covered by title IV-D of the Social Security Act for the purpose of locating absent parents in connection with establishing or enforcing child support obligations.

(3) Provide the most recent home and employment addresses and Social Security Numbers to State agencies under agreements covered by Section 463 of the Social Security Act (42 U.S.C. 663) for the purpose of locating absent parents or children in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children;

(4) Provide the most recent home and employment addresses and Social Security Numbers to agents and attorneys of the United States, involved in activities in States which do not have agreements under Section 463 of the Social Security Act (42 U.S.C. 663) for purposes of locating absent parents or children in connection with Federal investigations, enforcement proceedings or prosecutions involving the unlawful taking or restraint of children.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

PLS records are maintained on disk and magnetic tape, and hard copy. The record is defined as a request for address information.

RETRIEVABILITY:

System records can be accessed by either a State assigned case identification number or Social Security Number.

SAFEGUARDS:

All requests from the State IV-D Agency must certify that (1) they are being made to locate an absent parent for the purpose of establishing paternity or securing child support, or in cases involving parental kidnapping or child custody determinations and for no other purpose; (2) the State IV-D agency has in effect protective measures to safeguard the personal information being transferred and received from the Federal Parent Locator Service; and (3) the State IV-D Agency will use or disclose this information for the purposes prescribed in 45 CFR 302.70. All Federal and State personnel and contractors, are required to take a nondisclosure oath. All input documents will be inventoried and accounted for. All inputs and outputs will be stored in a locked receptacle in a locked room. All outputs will be labeled "For Official Use Only" and treated accordingly. Operations control will be vested under a single system manager. Every State using the system will be verified via three levels of user ID's. All data files will be protected by unique passwords and security codes. Remote users have "read only" system access capabilities and cannot read any other function on the system. The system complies with the HHS, ADP Systems Manual Part 6, "ADP Systems Security".

RETENTION AND DISPOSAL:

Records of address information provided in response to requests are maintained only long enough to communicate the information to the State or the Federal agent or attorney requesting it. After this time they are destroyed. A record of the request only which includes information provided by the State, Federal agencies contacted, and an indication of the type of information so returned is stored on a history tape and hardcopy. All history data will be retained for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information and Management Systems Division Office of Child Support Enforcement Department of Health and Human Services 6110 Executive Blvd., Rockville, Md. 20852

NOTIFICATION PROCEDURE:

Contact the system manager in writing at the above address and provide your name and address. Additional information, such as your Social Security Number, date of birth or mother's maiden name, may be requested by the system manager in order to distinguish between individuals having the same or similar names.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under system manager above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES

Information is obtained from departments, agencies, or instrumentalities of the United States or any State.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-25974 Filed 9-3-81 8:45 am]
BILLING CODE 4110-12-M

Food and Drug Administration

[Docket No. 80N-0012; DESI 8884, 8924, 9049, 9405, 10367, 10826, 50168, and 50234]

Prescription Topical Anti-Infective Drug Products for Dermatologic Use; Drug Efficacy Study Implementation; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) gives notice of two public informational meetings to announce a forthcoming Federal Register notice implementing the Drug Efficacy Study Implementation (DESI) review as it pertains to certain prescription topical anti-infective drug products for dermatologic use. One meeting will be directed toward health professionals, the other toward pharmaceutical manufacturers. At the meetings, the DESI review and this

specific proposed DESI action will be explained.

DATE: Both meetings will be held on September 24, 1981. The meeting for health professionals will be held from 10:30 a.m. to 12 m. The meeting for pharmaceutical manufacturers will be held from 1:30 p.m. to 3 p.m. The forthcoming DESI notice may be seen on September 24, 1981.

ADDRESS: Both meetings will be held in the Main Lobby Auditorium of the Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, D.C. 20201. The forthcoming DESI notice may be seen at the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., and at the Food and Drug Administration Press Office (HFI–40), Rm. 3807, 200 C St. SW., Washington, D.C. 20204, from 9 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: The DESI program is FDA's mechanism for implementing the 1962 effectiveness amendments to the Federal Food, Drug, and Cosmetic Act. The amendments require that drugs approved for marketing on the basis of safety before 1962 be reviewed for effectiveness and removed from the market if not shown to be effective.

As part of the DESI review, the Bureau of Drugs will soon publish in the **Federal Register** a notice pertaining to 112 prescription topical anti-infective drug products for dermatologic use, as well as to any identical, similar, or related products. Some of the products are very widely prescribed. (The notice will cover antibiotic or other anti-infective/steroid combinations, antibiotic combinations, and single-entity antibiotics.) The notice will revoke a temporary exemption that was granted pending studies of their effectiveness and will evaluate the results of the studies.

This notice is a step toward final resolution of the question of whether the products are effective. If the agency ultimately finds that the products lack substantial evidence of effectiveness, they will be removed from the market. However, there are further procedural steps before the final determination of effectiveness is made.

The agency will hold two open public meetings to explain the DESI review and this specific DESI action. Both meetings are open to the public and will be of similar content. It is expected, however, that the morning meeting will be of most interest to health professionals. At that meeting, the DESI review generally and its effect on the practice of medicine will be explained. The meeting for pharmaceutical manufacturers will focus primarily on the requirement for data from adequate and well-controlled clinical trials.

Both meetings will be held on September 24, 1981, in the Main Lobby Auditorium of the Hubert H. Humphrey Bldg. (address above). The health professionals meeting will be held from 10:30 a.m. to 12 m. The pharmaceutical manufacturers meeting will be held from 1:30 p.m. to 3 p.m. Seating will be on a first-come basis.

Limited numbers of copies of the DESI notice will be made available at both meetings. That notice also will be placed on public display on September 24, 1981, and may be seen at the Dockets Management Branch and at the FDA Press Office (addresses above) from 9 a.m. to 4 p.m.

Dated: September 1, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–25860 Filed 9–3–81; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 81M–0258]

Radiometer America, Inc.; Premarket Approval of TCM10 TC Carbon Dioxide Monitoring System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the TCM10 TC Carbon Dioxide Monitoring System sponsored by Radiometer America, Inc., Westlake, OH. After reviewing the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 5, 1981.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, RM. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On December 29, 1980, Radiometer America, Inc. (formerly The London Co.), Westlake, OH, submitted to FDA an application for premarket approval of the TCM10 TC Carbon Dioxide Monitoring System. The application was reviewed by the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device on neonates and infants. The use of this device on adults is still investigational. On August 7, 1981, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Henry Goldstein (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to

grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 5, 1981, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 28, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25858 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0004/CP]

Tomato Juice Deviating From Identity Standards; Extension and Further Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the extension and further amendment of a temporary permit issued to Libby, McNeill & Libby, Inc., to market test tomato juice from concentrate to which ascorbic acid is added to attain a vitamin C level of 4 milligrams per fluid ounce. This action enables Libby, McNeill & Libby, Inc., to improve the quality of information to be derived from the market test by increasing the number of container sizes available to the consumer.

DATES: This amended permit is effective on September 4, 1981, and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal to amend the identity standard for tomato juice, which was published in the **Federal Register** of May 9, 1978 (43 FR 19864), or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued for a 15-month period to Libby, McNeill & Libby, Inc., under § 130.17 (21 CFR 130.17) on temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the permit was published in the **Federal Register** of May 13, 1980 (45 FR 31498). Notice of the amended permit was published in the **Federal Register** of August 19, 1980 (45 FR 55281). The amended permit provided for the temporary marketing of 100,000 cases of twelve 46-ounce cans, 17,000 cases of twenty-four 12-ounce cans, and 60,000 cases of forty-eight 5½-ounce cans per month of the product to be distributed in all States except Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

Libby, McNeill & Libby, Inc., asked that its existing temporary permit be extended and further amended by increasing the number of container sizes available to the consumer and expanding the areas of distribution for the 5½-ounce size can. Citing a recent market test in the Kansas City, MO, market the company stated, "Sales of the test product in fact showed a slight increase over sales of the regular label product meeting the standard of identity set forth in 21 CFR 156.145, thereby suggesting a significant consumer acceptance, if not preference, for the test product, at least in that test market." The applicant indicated, however, that the marketing of its test product was insufficient to obtain adequate data to assess the acceptability of the product in other size and glass containers.

The company has asked that its temporary permit be extended for the duration of the administrative proceeding on the proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978.

FDA concludes that it will be in the consumers' interest to extend the time period of the temporary permit and, in addition to the quantities provided for in the existing permit, to permit monthly market testing of 10,000 cases of six 48-ounce glass bottles, 25,000 cases of twelve 32-ounce glass bottles, and 12,000 cases of twenty-four 18-ounce cans of the product in all States except Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington, except that 87,500 cases per month of forty-eight 5½-ounce cans will be distributed in all States except Alaska and Hawaii.

Under § 130.17, all interested persons may participate in the market test under the conditions that apply to Libby, McNeill & Libby, Inc., including the labeling requirements and the amounts to be distributed. The designated areas of distribution do not apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify FDA in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit, along with this notification, the labeling under which the food is to be distributed.

This permit extension, as issued to Libby, McNeill & Libby, Inc., and others who participate in accordance with the provisions set forth in this notice, is effective on September 4, 1981, and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: August 31, 1981.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-25859 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-03-M

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1982

AGENCY: Office of Program Coordination and Review, Office of Human Development Services, Department of Health and Human Services.

ACTION: Notice of Allocation of Title XX—Social Services Block Grant allotments for Fiscal Year 1982.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1982 pursuant to Title XX of the Social Security Act, as amended. This issuance supersedes the allotments for Fiscal Year 1982 which were promulgated in the **Federal Register,** Vol. 45, No. 237, for December 8, 1980.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Subtitle C of Pub. L. 97-35, enacted August 13, 1981, amended Title XX of the Social Security Act, replacing the program of grants to States for social services and for personnel training and retraining directly related to social services with the Title XX—Social Services Block Grant Program. As amended, Section

2003 of the Social Security Act authorizes $2.4 billion for Fiscal Year 1982 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receive an amount which bears the same ratio to $2.4 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion;

(2) The remainder of the $2.4 billion is alloted to each State and the District of Columbia in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1982, the allotments are based upon the Bureau of Census 1980 Decennial Census.

EFFECTIVE DATE: These allotments shall be effective October 1, 1981.

FY 1982 Federal Allotments to States for Social Services—Title XX Block Grants

Total	$2,400,000,000
Alabama	40,989,347
Alaska	4,214,843
Arizona	28,639,857
Arkansas	24,067,827
California	249,402,791
Colorado	30,441,703
Connecticut	32,749,329
Delaware	6,269,579
District of Columbia	6,722,674
Florida	102,631,424
Georgia	57,574,754
Guam	413,793
Hawaii	10,166,309
Idaho	9,947,029
Illinois	120,312,891
Indiana	57,848,719
Iowa	30,694,594
Kansas	24,899,184
Kentucky	38,576,350
Louisiana	44,297,999
Maine	11,854,246
Maryland	44,424,444
Massachusetts	60,451,364
Michigan	97,552,539
Minnesota	42,959,786
Mississippi	26,564,047
Missouri	51,810,956
Montana	8,292,703
Nebraska	16,543,258
Nevada	8,419,149
New Hampshire	9,704,678
New Jersey	77,595,258
New Mexico	13,696,239
New York	184,999,992
North Carolina	61,894,966
North Dakota	6,880,731
Northern Mariana Islands	82,759
Ohio	113,769,147
Oklahoma	31,874,749
Oregon	27,744,203
Pennsylvania	125,043,851
Puerto Rico	12,413,793
Rhode Island	9,978,641
South Carolina	32,865,237
South Dakota	7,270,604
Tennessee	48,375,859
Texas	149,921,962
Utah	15,394,714
Vermont	5,384,462
Virgin Islands	413,793
Virginia	56,331,375
Washington	43,518,253
West Virginia	20,547,359
Wisconsin	49,577,090
Wyoming	4,962,977

Dated: August 27, 1981.

Teresa Hawkes,

Director, Office of Program Coordination and Review.

Approved: August 31, 1981.

Jaime L. Manzano,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 81-25680 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service

Privacy Act of 1974

AGENCY: Department of Health and Human and Services; Public Health Service.

ACTION: Notification of new systems of records:

09-25-0147: Records of Participants in programs and Respondents in Surveys Used to Evaluate Programs of the National Heart, Lung and Blood Institute, HHS/NIH/NHLBI.

09-25-0149: Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of General Medical Sciences, HHS/NIH/NIGMS.

09-25-0150: Records of participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish three new systems of records: 09-25-0147: Records of participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Heart, Lung and Blood Institute, HHS/NIH/NHLBI; 09-25-0149: Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of General Medical Sciences, HHS/NIH/NIGMS; 09-25-0150: Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of Environmental Health Sciences, HHS/NIH/NIEHS. We are also proposing routine uses for these systems.

The National Institutes of Health (NIH) will collect, maintain and analyze records in the proposed systems of records in order to evaluate the methods, materials, activities and services which NIH uses in pursuing program goals.

PHS invites interested persons to submit comments on the proposed routine uses on or before October 5, 1981.

DATES: PHS has sent a report of New Systems to the Congress and to the Office of Management and Budget on August 25, 1981. The systems of records will be effective 60 days from the date submitted to OMB unless PHS receives comments on the routing uses which would result in a contrary determination.

ADDRESS: Comments should be addressed to the NIH Privacy Act Coordinator at the address listed below. Comments received will be available for inspection between 9 a.m. and 3 p.m., Monday through Friday, in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205 (or call 301-496-4606).

SUPPLEMENTARY INFORMATION: NIH was established to improve the health of the American people by conducting biomedical research, supporting such research elsewhere by means of grants, contracts and other awards, and promoting communication and dissemination of the knowledge generated by such research. To achieve these goals, NIH sponsors a large number of programs and projects in its own facilities, throughout the nation, and overseas as well. From time to time, NIH conducts special reviews to determine how well these programs and projects are achieving their specific goals. In many cases such studies do not involve any records subject to the Privacy Act. In other cases NIH conducts studies using information contained in an existing system of records. In two general cases, however, program evaluation studies will require the maintenance of records under a system specifically devoted to evaluation studies:

(1) Evaluation studies may take the form of surveys in which individuals who have or could participate in, contribute to, or benefit from NIH programs are asked to provide opinions, suggestions or other information useful in judging how successful the programs have been. For example, surveys of how much the public knows about certain methods for reducing the risk of disease may be used to evaluate the success of programs which aim at disseminating information about disease prevention.

(2) Other special studies may collect information from existing sources. For example, in order to estimate the success of research training progams, NIH may assemble information from

scientific bibliographies about publications by individuals who have received research training support, or from NIH grant files about research grants subsequently awarded to such individuals.

The special studies may be conducted by NIH staff or by contracts awarded to other organizations. Such contracts might be awarded when NIH staff is not available to conduct a study or when other organizations are in better positions to perform such a study.

Records collected under these systems will be organized and maintained according to the particular evaluation study of which they are a part. Records will not be entered into a general or comprehensive data base; however, each institute is covering the separate sets of records it will maintain as a single umbrella system under the Privacy Act (1) because all of the sets of records serve the same purpose, (2) in order to apply consistent policies and practices in the maintenance of such records, and (3) to make it easier for subject individuals to obtain notification of or access to their records.

The routine uses proposed for all three systems are identical, and they are compatible with the purpose of evaluating NIH programs. The first three proposed routines uses are needed to accomplish the purpose of each system. Information would be disclosed as stipulated in these routine uses in the conduct, review, analysis or followup of evaluation studies. A fourth routine use, for disclosure to the Department of Justice, is proposed in order to promote fair information practices by obtaining the advice of that Department on releasing or withholding information requested by third parties under the Freedom of Information Act. The fifth proposed routine use, for disclosure to a congressional office, would not violate the privacy of an individual because such disclosure would be made only pursuant to a request initiated by the individual.

Dated: August 31, 1981.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09-25-0147

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Heart, Lung and Blood Institute, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records in this system are located in National Institutes of Health (NIH) facilities in Bethesda, Maryland, or in facilities of contractors of the National Heart, Lung and Blood Institute (NHLBI). Inactive records may be retired to Federal Records Centers. The address of the NIH office responsible for records in this system is that of the System Manager listed below. The addresses of current locations at contractors sites and Federal Records Centers may be obtained by writing to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system may include (1) patients of NHLBI or in NHLBI-sponsored programs, (2) participants in research studies supported by NHLBI, (3) recipients of grants, fellowships, traineeships or other awards from NHLBI, (4) employees and consultants, (5) persons, such as researchers, health care professionals or patients, who use, receive or are aware of NHLBI programs and services, and (6) members of health professions or of the general public who provide opinions or suggestions for evaluating NHLBI programs and services.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records containing two general types of information: (1) Information identifying subject individuals, and (2) information which enables NHLBI to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Evaluative information varies according to the program which is being evaluated by a given study. Categories of evaluative information include personal and medical data on participants in clinical and research programs; publications, professional achievements and career history of employees, consultants and recipients of awards; and opinions and other information received directly from individuals in surveys and studies of NIH programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the basic legislation which defines the mission of the National Heart, Lung and Blood Institute (42 U.S.C. 229b, 241, 242*l*, 287 to 287i, 289*l*-1 to 289*l*-4).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the methods, materials, activities and services used by NIH in fulfilling its legislated mandate to conduct and support biomedical research into the causes, prevention and cure of diseases, to support training of research investigators, and to support communication of biomedical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and state and local officials for the purpose of improving the effectiveness of NIH programs. The recipients will be required to protect the confidentiality of such records.

2. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

3. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible forms (e.g. tapes, discs or punched cards).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of

records included under this system according to the sensitivity of the data they contain. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information such as personal or medical history or individually identified opinions, is protected according to the level of sensitivity of the data.

Minimal safeguards for the protection of information which is not available to the general public include:

(1) *Authorized Users:* Regular access to information is limited to NIH or to contractor employees and collaborating researchers who are conducting, reviewing or contributing to the evaluation study. Other special access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the System Manager or designated responsible official.

(2) *Physical Safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use.

(3) *Procedural Safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in computers is accessed only through the use of key words known only to authorized personnel.

In addition, sensitive records are kept in locked metal filing cabinets or in a secured room or closed containers at all times when not in use; sensitive records are not left exposed to unauthorized persons at any time.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

While reports, statistical compilations and final recommendations derived from the evaluation studies are permanent records which will be offered to the National Archives when 22 years old, individually identified records are kept for five years and then destroyed under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 1100–C–12. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Program Planning & Evaluation
Building 31, Room 5A03
National Heart, Lung and Blood Institute (NHLBI)
Bethesda, Maryland 20205

NOTIFICATION PROCEDURE: To determine if a record exists, write to:

NHLBI Privacy Act Coordinator
Building 31, Room 5A29
National Institutes of Health
Bethesda, MD 20016

Requesters must provide the following information:

1. Full name
2. Name and location of the evaluation study or other NHLBI program in which the requester participated
3. Approximate dates of participation

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a 5,000 dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to the System Manager and reasonably identify the record, specify the information being contested and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from other records maintained by the operating programs of NHLBI, its contractors, grantees or collaborating researchers, or from publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0149

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of General Medical Sciences, HHS/NIH/NIGMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records in this system are located in National Institues of Health (NIH) facilities in Bethesda, Maryland, or in facilities of contractors of the National Institute of General Medical Sciences (NIGMS). Inactive records may be retired to Federal Records Centers. The address of the NIH office responsible for records in this system is that of the System Manager listed below. The addresses of current locations at contractor sites and Federal Records Centers may be obtained by writing to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system may include (1) patients of NIGMS or in NIGMS-sponsored programs, (2) participants in research studies supported by NIGMS, (3) recipients of grants, fellowships, traineeships or other awards from NIGMS, (4) employees and consultants, (5) persons, such as researchers, health care professionals or patients, who use, receive or are aware of NIGMS programs and services, and (6) members of health professions or of the general public who provide opinions or suggestions for evaluating NIGMS programs and services.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records containing two general types of information: (1) information identifying subject individuals, and (2) information which enables NIGMS to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Evaluative information varies according to the program which is being evaluated by a given study. Categories of evaluative information include personal and medical data on participants in clinical and research programs; publications, professional achievements and career history of

employees, consultants and recipients of awards; and opinions and other information received directly from individuals in surveys and studies of NIH programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the basic legislation which defines the mission of the National Institute of General Medical Sciences (42 U.S.C. 229b, 241, 242/, 289e, 289g, 289/–1 to 289/–4, 300b–1, 300d–21).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the methods, materials, activities and services used by NIH in fulfilling its legislated mandate to conduct and support biomedical research into the causes, prevention and cure of diseases, to support training of research investigators, and to support communication of biomedical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and state and local officials for the purpose of improving the effectiveness of NIH programs. The recipients will be required to protect the confidentiality of these records.

2. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

3. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible forms (e.g. tapes, discs or punched cards).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

A variety of safeguards are implemented for various sets of records included under this system according to the sensitivity of the data they contain. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information such as personal or medical history or individually identified opinions, is protected according to the level of sensitivity of the data.

Minimal safeguards for the protection of information which is not available to the general public include:

(1) *Authorized Users:* Regular access to information is limited to NIH or to contractor employees and collaborating researchers who are conducting, reviewing or contributing to the evaluation study. Other special access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the System Manager or designated responsible official.

(2) *Physical Safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use.

(3) *Procedural Safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in computers is accessed only through the use of key words known only to authorized personnel.

In addition, sensitive records are kept in locked metal filing cabinets or in a secured room or closed containers at all times when not in use; sensitive records are not left exposed to unauthorized persons at any time.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, Systems Security, of the HHS Systems Manual.

RETENTION AND DISPOSAL:

While reports, statistical compilations and final recommendations derived from the evaluation studies are permanent records which will be offered to the National Archives when 22 years old, individually identified records are kept for five years and then destroyed under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 1100–C–12. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER AND ADDRESS:

Health Science Administrator, Cellular and Molecular Basis of Disease Program, National Institute of General Medical Sciences (NIGMS), Westwood Building, Room 907, Bethesda, Maryland 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIGMS Privacy Act Coordinator, Westwood Building, Room 9A10, National Institutes of Health, Bethesda, MD 20016.

Requesters must provide the following information:

1. Full name.

2. Name and location of the evaluation study or other NIGMS program in which the requester participated.

3. Approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a 5,000 dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to the System Manager and reasonably identify the record, specify the information being contested and

state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from other records maintained by the operating programs of NIGMS, its contractors, grantees or collaborating researchers, or from publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0150

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institute of Environmental Health Sciences, HHS/NIH/NIEHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records in this system are located in National Institutes of Health (NIH) facilities in Research Triangle Park, North Carolina, or in facilities of contractors of the National Institute of Environmental Health Sciences (NIEHS). Inactive records may be retired to Federal Records Centers. The address of the NIH office responsible for records in this system is that of the System Manager listed below. The addresses of current locations at contractor sites and Federal Records Centers may be obtained by writing to the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system may include (1) patients of NIEHS or in NIEHS-sponsored programs, (2) participants in research studies supported by NIEHS, (3) recipients of grants, fellowships, traineeships or other awards from NIEHS, (4) employees and consultants, (5) persons, such as researchers, health care professionals or patients, who use, receive or are aware of NIEHS programs and services, and (6) members of health professions or of the general public who provide opinions or suggestions evaluating NIEHS programs and services.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records containing two general types of information: (1) Information identifying subject individuals, and (2) information which enables NIEHS to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Evaluative information varies according to the program which is being evaluated by a given study. Categories of evaluative information include personal and medical data on participants in clinical and research programs; publications, professional achievements and career history of employees, consultants and recipients of awards; and opinions and other information received directly from individuals in surveys and studies of NIH programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the basic legislation which defines the mission of the National Institute of Environmental Health Sciences (42 U.S.C. 229b, 241, 242*l*, 289*l*–1 to 289*l*–4, 15 U.S.C. 793).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the methods, materials, activities and services used by NIH in fulfilling its legislated mandate to conduct and support biomedical research into the causes, prevention and cure of diseases, to support training of research investigators, and to support communication of biomedical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and state and local officials for the purpose of improving the effectiveness of NIH programs. The recipients will be required to protect the confidentiality of these records.

2. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act Safeguards with respect to such records.

3. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible forms (e.g. tapes, discs or punched cards).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information such as personal or medical history or individually identified opinions, is protected according to the level of sensitivity of the data.

Minimal safeguards for the protection of information which is not available to the general public include:

(1) *Authorized Users:* Regular access to information is limited to NIH or to contractor employees and collaborating researchers who are conducting, reviewing or contributing to the evaluation study. Other special access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the System Manager or designated responsible official.

(2) *Physical Safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use.

(3) *Procedural Safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in computers is accessed only through the use of key words known only to authorized personnel.

In addition, sensitive records are kept in locked metal filing cabinets or in a

secured room or closed containers at all times when not in use; sensitive records are not left exposed to unauthorized persons at any time.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual, supplementary chapter PHS hf: 45–13, and Part 6, Systems Security, of the HHS ADP Systems Manual.

RETENTION AND DISPOSAL:

While reports, statistical compilations and final recommendations derived from the evaluation studies are permanent records which will be offered to the National Archives when 22 years old, individually identified records are kept for five years and then destroyed under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361), item 1100–C–12. Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER AND ADDRESS:

Program Analyst, Office of Program Planning and Evaluation, National Institute of Environmental Health Sciences (NIEHS), P.O. Box 12233, Research Triangle Park, N.C. 27709.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: Program Analyst, Office of Program Planning and Evaluation, National Institute of Environmental Health Sciences (NIEHS), P.O. Box 12233, Research Triangle Park, N.C. 27709.

Requesters must provide the following information:

1. Full name.

2. Name and location of the evaluation study or other NIEHS program in which the requester participated.

3. Approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a 5,000 dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Write to the System Manager and reasonably identify the record, specify the information being contested and state the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from other records maintained by the operating programs of NIEHS, its contractors, grantees or collaborating researchers, or from publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-25903 Filed 9-3-81; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Dickinson District Advisory Council Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Meeting.

SUMMARY: The citizen advisory council for the Bureau of Land Management's Dickinson District will meet October 15 and 16, 1981. There will be five topics before the council: leasing target for federal coal in the Fort Union Coal Region; ranking factors to be used in recommending federal coal tracts for leasing; BLM environmental documents covering the 24 Fort Union coal tracts; the regional environmental impact statement for federal coal leasing to be published in 1982; and the Southwest and McKenzie-Williams management framework plans.

District staff will take the council on a field tour of the Dunn Center Southeast coal tract (in Dunn County) on October 15. Later that day, the council will attend an open house and public hearing sponsored by the regional coal team. The formal council meeting will begin at 8:00 a.m. MDT on October 16.

The council is chartered by the Secretary of the Interior to give citizen counsel and advice to the Dickinson District Manager regarding planning and management of public lands and resources. The tour, open house and hearing, and formal council meeting are open to the public; however, transportation for the tour will be provided only for the council members. Persons wishing to submit a written statement to the council should contact the Dickinson District Manager. Those wishing to make an oral statement before the council can do so at 10:00 a.m., October 16.

DATE, TIME, LOCATION: *Field Tour*—Leave Dickinson at 12:30 p.m. October 15 from the parking lot of the Gate City Building, 204 Sims Street. Return to Dickinson by 5:00 p.m.

Open House—7:00 p.m. October 15 in the auditorium of the Stark County Courthouse, Dickinson.

Hearing—8:00 p.m. October 15, same location as open house.

Advisory Council Meeting—8:00 a.m. until Noon, October 16. Community Room (basement) of the Gate City Building, 204 Sims Street, Dickinson.

FOR FURTHER INFORMATION CONTACT: Charles E. Steele, Dickinson District Manager; P.O. Box 1229; Dickinson, North Dakota 58601–1229. Telephone (701) 225–9148.

Kenneth H. Burke,

Acting District Manager.

[FR Doc. 81-25866 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; Alaska Regional Technical Working Group Committee Notification of Advisory Committee Vacancies (Discretionary Secretarial Appointments)

Committee: Alaska Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Alaska region.

The Committee is responsible for providing recommendations and information regarding pre-lease and post-lease sale activities, including environmental statement preparation and stipulation development, regional environmental studies, and transportation planning.

Number of Vacancies: 5.

Total Number of Discretionary Secretarial Appointments: 7.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meetings.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for

membership should be familiar with the OCS oil and gas program. Applicants should also be capable of dealing with specific technical problems of production and transportation of offshore oil and gas as well as the economic and environmental factors involved. Additionally, applicants should have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in or more of the following disciplines;

a. Geology
b. Oceanography
c. Oil and Gas Transportation Planning
d. Land-use Planning
e. Economics
f. Marine Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology.

Remarks: The Regional Technical Working Group (RTWG) Committees represent one of three types of committees of the OCS Advisory Board. The Board includes, in addition to the RTWG Committees, a National Scientific Committee and a National Policy Committee. The RTWG Committees have been established in each of the six OCS leasing regions and provide the forum which is used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities. This program of technical level coordination and planning was established in 1979 and is administered by the Bureau of Land Management. The RTWG Committees are comprised of representatives from the States within each leasing region and include regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, National Oceanic and Atmospheric Administration, and the U.S. Coast Guard; representatives from the oil and gas industry; and other private and special interests.

Note.—This vacancy announcement is for recruitment of private sector members only. State members are nominated by the Governors of the affected States and Federal agency members by affected Federal agency heads.

Letters of recommendation should be accompanied by brief resumes and should be directed to Ms. Esther Wunnicke, Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510.

The final date for receipt of applications will be October 21, 1981. For additional information with regard to this committee vacancies, contact Mr. Gordon Euler at the above address or telephone 907–276–2955.

Dated: August 29, 1981.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 81-25667 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; Gulf of Mexico Regional Technical Working Group Committee Notification of Advisory Committee Vacancies (Discretionary Secretarial Appointments)

Committee: Gulf of Mexico Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continential Shelf (OCS) oil and gas leasing program in the Gulf of Mexico region.

The Committee is responsible for providing recommendations and information regarding pre-lease and post-lease sale activities, including environmental statement preparation and stipulation development, regional environmental studies, and transportation planning.

Number of Vacancies: 5.

Total Number of Discretionary Secretarial Appointments: 7.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meeting.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should be familiar with the OCS oil and gas program. Applicants should also be capable of dealing with specific technical problems of production and transportation of offshore oil and gas as well as the economic and environmental factors involved. Additionally, applicants should have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Oil and Gas Transportation Planning
d. Land-use Planning
e. Economics
f. Marine Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineerting
j. Marine Biology.

Remarks: The Regional Technical Working Group (RTWG) Committees represent one of three types of committees of the OCS Advisory Board. The Board includes, in addition to the RTWG Committees, a national Scientific Committee and a national Policy Committee. The RTWG Committees have been established in each to the six OCS leasing regions and provide the forum which is used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities. This program of technical level coordination and planning was established in 1979 and is administered by the Bureau of Land Management. The RTWG Committees are comprised of representatives from the States within each leasing region and include regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Enviromental Protection Agency, National Oceanic and Atmospheric Administration, and the U.S. Coast Guard; representative from the oil and gas industry; and other private and special interests.

Note.—This vacancy announcement is for recruitment of private sector members only. State members are nominated by the Governors of the affected States and Federal agency members by affected Federal agency heads.

Letters of recommendation should be accompanied by brief resumes and should be directed to Mr. John Rankin, Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

The final date for receipt of applications will be October 21, 1981. For additional information with regard to this committee vacancies, contact Mr. Sydney Verinder at the above address or telephone 504–582–6541.

Dated: August 29, 1981.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 81-25669 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; North and Mid-Atlantic Regional Technical Working Group Committees Notification of Advisory Committee Vacancies (Discretionary Secretarial Appointments)

Committee: North and Mid-Atlantic Regional Technical Working Group Committees, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the North and Mid-Atlantic regions. These two Committees will meet as one for the time being.

The Committee is responsible for providing recommendations and information regarding pre-lease and post lease sale activities, including environmental statement preparation and stipulation development, regional environmental studies, and transportation planning.

Number of Vacancies: 12.

Total Number of Discretionary Secretarial Appointments: 16.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meeting.

Qualifications: Appointees will be selected to effect a balance in term of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should be familiar with the OCS oil and gas program. Applicants should also be capable of dealing with specific technical problems of production and transportation of offshore oil and gas as well as the economic and environmental factors involved. Additionally, applicants should have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Oil and Gas Transportation Planning
d. Land-use Planning
e. Economics
f. Marine Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Group (RTWG) Committees represent one of three types of committees of the OCS Advisory Board. The Board includes, in addition to the RTWG Committees, a national Scientific Committee and a national Policy Committee. The RTWG Committees have been established in each of the six OCS leasing regions and provide the forum which is used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities. This program of technical level coordination and planning was established in 1979 and is administered by the Bureau of Land Management. The RTWG Committees are comprised of representatives from the States within each leasing region and include regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, National Oceanic and Atmospheric Administration, and the U.S. Coast Guard; representatives from the oil and gas industry; and other private and special interest.

Note.—This vacancy announcement is for recruitment of private sector members only. State members are nominated by the Governors of the affected States and Federal agency members by affected Federal agency heads.

Letters of recommendation should be accompanied by brief resumes and should be directed to Mr. Frank Basile, Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Federal Building, Suite 32–120, New York, New York 10278.

The final date for receipt of applications will be October 21, 1981. For additional information with regard to this committee vacancies, contact Mr. Richard Barnett at the above address or telephone 212–264–1061.

Dated: August 29, 1981.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 81-25808 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; Pacific Regional Technical Working Group Committee Notification of Advisory Committee Vacancies (Discretionary Secretarial Appointments)

Committee: Pacific Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the Pacific region.

The Committee is responsible for providing recommendations and information regarding pre-lease and post lease sale activities, including environmental statement preparation and stipulation development, regional environmental studies, and transportation planning.

Number of Vacancies: 3.

Total Number of Discretionary Secretarial Appointments: 7.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meeting.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should be familiar with the OCS oil and gas program. Applicants should also be capable of dealing with specific technical problems of production and transportation of offshore oil and gas as well as the economic and environmental factors involved. Additionally, applicants should have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines.

a. Geology
b. Oceanography
c. Oil and Gas Transportation Planning
d. Land-use Planning
e. Economics
f. Marine Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Group (RTWG) Committees represent one of three types of committees of the OSC Advisory Board. The Board includes, in addition to the RTWG Committees, a national Scientific Committee and a national Policy Committee. The RTWG Committees have been established in each of the six OCS leasing regions and provide the forum which is used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities. This program of technical level coordination and planning was established in 1979 and is administered by the Bureau of Land Management. The RTWG Committees are comprised of representatives from the South within each leasing region and include regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, National Oceanic and Atmospheric Administration, and the U.S. Coast Guard; representatives from the oil and

gas industry; and other private and special interests.

Note.—This vacancy announcement is for recruitment of private sector members only. State members are nominated by the Governors of the affected State and Federal agency members by affected Federal agency heads.

Letters of recommendation should be accompanied by brief resumes and should be directed to Mr. William E. Grant, Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 W. Sixth Street, Room 200, Los Angeles, California 90017.

The final date for receipt of applications will be October 21, 1981. For additional information with regard to this committee vacancies, contact Ms. Ellen Aronson at the above address or telephone 213–688–6758.

Dated: August 29, 1981.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 81-25870 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; South Atlantic Regional Technical Working Group Committee Notification of Advisory Committee Vacancies (Discretionary Secretarial Appointments)

Committee: South Atlantic Regional Technical Working Group Committee, Outer Continental Shelf Advisory Board.

Purpose: To advise the Secretary, through the Director, Bureau of Land Management, on technical matters of regional concern relating to the Outer Continental Shelf (OCS) oil and gas leasing program in the South Atlantic region.

The Committee is responsible for providing recommendations and information regarding pre-lease and post lease sale activities, including environmental statement preparation and stipulation development, regional environmental studies, and transportation planning.

Number of Vacancies: 3.

Total Number of Discretionary Secretarial Appointments: 7.

Length of Term: 2 years.

Compensation: Travel/per diem for attendance at meeting.

Qualifications: Appointees will be selected to effect a balance in terms of points of view, and on the basis of technical or other expertise relevant to OCS-related activities. Applicants for membership should be familiar with the OCS oil and gas program. Applicants should also be capable of dealing with specific technical problems of production and transportation of offshore oil and gas as well as the economic and environmental factors involved. Additionally, applicants should have experience in or a working understanding of interagency coordination at the Federal or State level and should possess competence in one or more of the following disciplines:

a. Geology
b. Oceanography
c. Oil and Gas Transportation Planning
d. Land-use Planning
e. Economics
f. Marine Recreation
g. Terrestrial Wildlife
h. Fisheries Biology
i. Engineering
j. Marine Biology

Remarks: The Regional Technical Working Group (RTWG) Committees represent one of three types of committees of the OCS Advisory Board. The Board includes, in addition to the RTWG Committees, a national Scientific Committee and a national Policy Committee. The RTWG Committees have been established in each of the six OCS leasing regions and provide the forum which is used in the operation of the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities. This program of technical level coordination and planning was established in 1979 and is administered by the Bureau of Land Management. The RTWG Committees are comprised of representatives from the States within each leasing region and include regional representatives from the Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, Environmental Protection Agency, National Oceanic and Atmospheric Administration, and the U.S. Coast Guard; representatives from the oil and gas industry; and other private and special interests.

Note.—This vacancy announcement is for recruitment of private sector members only. State members are nominated by the Governors of the affected States and Federal agency members by affected Federal agency heads.

Letters of recommendations should be accompanied by brief resumes and should be directed to Mr. Frank Basile, Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Federal Building, Suite 32–120, New York, New York 10278.

The final date for receipt of applications will be October 21, 1981. For additional information with regard to this committee vacancies, contact Mr. Richard Barnett at the above address or telephone 212–264–1061.

Dated: August 29, 1981.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 81-25871 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Wyoming and Montana; Powder River Regional Coal Team Meeting

August 28, 1981.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Agenda Amendment.

SUMMARY: The **Federal Register** Notice, Vol. 46, No. 141, page 37984, July 23, 1981, stated the Powder River Regional Coal Team will meet October 2, 1981, to formally review the Draft Environmental Impact Statement and all public comments and to review their selection of alternatives. Also to be included in the meeting agenda will be a discussion of the AMAX Northern Cheyenne exchange proposal which includes portions of the Duck Nest Creek tract. It is requested that any companies interested in the leasing of the Duck Nest Creek tract attend the regional coal team meeting and be prepared to discuss the extent of their interest in the tract; generally, how they would mine and transport the coal, and how they would deal with the intervening private lands. The purpose of this discussion is to bring all the facts to the surface in a public forum. The regional coal team will not vote on a resolution.

The regional coal team will also request public comments on the matter of the scheduling of the proposed lease sale in the Powder River Region.

FOR FURTHER INFORMATION CONTACT: Robert O. Buffington, Regional Coal Team Chairperson, 208–324–1401, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Boise, Idaho 83724, or J. Stan McKee, Project Manager, 307–778–2220, extension 2413, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

F. William Eikenberry,

Associate State Director.

[FR Doc. 81-25794 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

[INT FES 81-37]

Gulf of Mexico Outer Continental Shelf; Availability of Final Environmental Impact Statement for Proposed OCS Oil and Gas Lease Sales No. 67 and 69

Pursuant to Section 102(2)(c) the National Environmental Policy Act of

1969 the Bureau of Land Management had prepared a final environmental impact statement relating to proposed oil and gas lease sales of 478 tracts of submerged lands on the Outer Continental Shelf of the Gulf of Mexico (OCS Sale Nos. 67 and 69).

Single copies of the final environmental impact statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental impact statement will also be available for review in the following libraries:

Austin Public Library, 401 West Ninth Street, Austin, Texas
Houston Public Library, 500 McKinney Street, Houston, Texas
Rosenburg Library, 2310 Sealy Street, Galveston, Texas
Dallas Public Library, 1954 Commerce Street, Dallas, Texas
New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana
Lafayette, Public Library, 301 West Congress Street, Lafayette, Louisiana
Calcasieu Parish Library, Downtown Branch, Lake Charles, Louisiana
Harrison County Library, 21st Avenue & Beach Street, Gulfport, Mississippi
Brazoria County Library, 410 Brazosport Boulevard, Freeport, Texas
La Ratama Library, 505 Mesquite Street, Corpus Christi, Texas
Texas Southmost College Library, 80 Fort Brown Street, Brownsville, Texas
West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida
Northwest Regional Library, System, 25 West Government Street, Panama, Florida
Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida
Mobile Public Library, 701 Government Street, Mobile, Alabama
Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama
St. Peterburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida
Lee County Free Library, 3355 Fowler Street, Fort Myers, Florida
Charlotte-Glades Regional Library System, 801 NW Aaron Street, Fort Charlotte, Florida
Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida

Bruce Blanchard,

Director, Environmental Project Review.

September 1, 1981.

[FR Doc. 81-25918 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Draft National Waterfowl Management Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Service announces availability for public comment of a revised draft National Waterfowl Management Plan. The purpose of the plan is to guide the efforts of State and Federal agencies who share a public interest in the welfare of waterfowl. The document sets forth national goals, objectives, policies and strategies for the cooperative management of waterfowl in the United States, and provides a basis for developing detailed management plans for each of the four waterfowl flyways. It contributes to the eventual development of a North American waterfowl management plan.

DATES: Comments on this revised draft plan will be accepted until October 5, 1981.

ADDRESSES: Send comments to: Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Copies of the revised draft plan may be obtained from: U.S. Fish and Wildlife Service, Office of Migratory Bird Management, 1717 H Street, N.W. (Room 555), Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George K. Brakhage, Assistant Chief, Office of Migratory Bird Management at (202) 254-3207.

Dated: September 1, 1981

F. Eugene Hester,

Acting Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 81-25931 Filed 9-3-81; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524 (b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Cardinal Paper Company, Inc., 220 East Reno, P.O. Box 25187, Oklahoma City, Oklahoma 73125.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: (i) Artex-Lane Company, Inc., a Texas Corporation.

1. Parent corporation and address of principal office: Congoleum Corporation, a Delaware corporation, P.O. Box 4040, 600 State Street, Portsmouth, New Hampshire 03801.

2. Wholly-owned subsidiaries which will participate in the operations and status of incorporation: Bath Iron Works Corporation, a Maine corporation; Congoleum Cartage Corporation, a Delaware Corporation.

1. Parent corporation and address of principal office: Overhead Door Corporation (an Indiana corporation), 6750 LBJ Freeway, P.O. Box 400150, Dallas, Texas 75240.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(1) Architectural Engineering Products Company, San Diego, California

(2) DaFran Corporation (dba Overhead Door Company of Tampa Bay), Tampa, Florida

(3) General Aluminum Corporation, Carrollton, Texas (Sales subsidiary, only)

(4) Heritage Door Company, Philadelphia, Pennsylvania

(5) Johnson International Sales Corp., Richmond, Indiana

(6) W.B. McGuire Co. Inc., Hudson, New York; W.B. McGuire Co. Internatonal, Inc., Hudson, New York

(7) OHD Corporation, Dallas, Texas; Childers Manufacturing Division, Dallas, Texas

(8) OHD Financial Services Group, Inc., Dallas, Texas

(9) OHD International, Inc., Dallas, Texas

(10) Overhead Door Company of Canada, Ltd., Oakville, Ontario; Woodchuck Manufacturing Division, Coquitlam, British Columbia

(11) Overhead Door Company of Denver, Inc., Denver, Colorado

(12) Overhead Door Corporation of Texas

Andes-Kwikway Division, Mt. Pleasant, Texas
Conso Tool Division, Dallas, Texas
Horton Automatics Division, Corpus Christi, Texas
National Fireplace Division, Richardson, Texas
Overhead Door Company of Houston, Texas
Processing Division, Dallas, Texas
Texas Division, Dallas, Texas

(13) Prospect Garage Door Company, Inc. (dba Overhead Door Company of Chicagoland), Chicago, Illinois

(14) Span Metals Corporation, Dallas, Texas

(15) Spartan Casket Shell, Inc., Lynn, Indiana

(16) UEC Manufacturing Company, Oklahoma City, Oklahoma.

3. Divisions which will participate in the operations, and State(s) of incorporation:

(1) Advance Industries Division, Appleton, Wisconsin

(2) California Division, Rancho Cordova, California

(3) Flush Door Division, Ft. Worth, Texas

(4) General Aluminum Division, Carrollton, Texas & Boise, Idaho

(5) Georgia Division, Athens, Georgia

(6) Indiana Division, Hartford City, Indiana

(7) Johnson Sheet Metal Works Division, Richmond, Indiana

(8) Kentucky Division, Covington, Kentucky

(9) McKinney Electronics Division, Costa Mesa, California

(10) Nebraska Division, Grand Island, Nebraska

(11) New York Division, Cortland, New York

(12) Operator Division, Shelbyville, Indiana

(13) Oregon Division, Salem, Oregon

(14) Pennsylvania Division, Lewistown, Pennsylvania

(15) Todco Door Division, Florence, Alabama; Fresno, California; Marion, Ohio; Womelsdorf, Pennsylvania

(16) Todco Engineered Products Division, Cattaraugus, New York

(17) Todco Jifflox Division, Hayward, California

(18) Todco Mechanical & Hydraulic Division, Toledo, Ohio.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25891 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-3-158

Decided: August 28, 1981.

By the Commission, Review Board Number 2, Members Carleton, Kelly, and Williams. Member Williams not participating.

MC 147915 (Sub-4), filed August 21, 1981. Applicant: RUSSO MOTOR EXPRESS, INC., Keim Boulevard & Bridge Plaza, Commerce Square, Burlington, NJ 08016. Representative: Robert R. Harris, 1730 M Street NW., Suite 501, Washington, DC 20036, (202) 296-2900. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 157815, filed August 20, 1981. Applicant: S & E TRUCKING, 3858 West 6290 South, West Jordan, UT 84084. Representative: Sharon S. McClellan (same address as applicant) (801) 966-4870. Transporting *food and other edible products, and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 157854, filed August 21, 1981. Applicant: CENTRAL DISPATCH, INC., Box 39B, Route #2, Glyndon, MN 56547. Representative: Jeffrey J. Pitsenbarger, P.O. Box 1066, Moorhead, MN 56560, (218) 233-2495. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 157855, filed August 21, 1981. Applicant: H.O. COBB, P.O. Box 85, Bergheim, TX 78004. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457-0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-348

Decided: August 28, 1981.

By the Commission, Review Board Number 2, Members Carleton, Kelly, and Williams.

MC 157757, filed August 18, 1981. Applicant: CROSS COUNTRY BROKERS, INC., 163 Main St., Route 131, Sturbridge, MA 01566. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781-8205. As a *broker of general commodities* (except household goods), between points in the U.S.

Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 4, Room 5331.

MC 157767, filed August 18, 1981. Applicant: R & A CORRUGATED SERVICES, INC., 1250 West Airline Hwy, P.O. Box 453, Reserve, LA 70084. Representative: Randall R. Rodgers, #9 Clevner, Kenner, LA 70062, (504) 467–1972. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 157777, filed August 19, 1981. Applicant: VERNON PUNT, d.b.a. VERNON PUT TRUCKING, Route 1, box 68, Stickney, SD 57375. Representative: A. J. Swanson, P.O. Box 1103, 226 North Phillips Ave., Sioux Falls, SD 57101, (605) 335–1777. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25893 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OPY–2–164

Decided: August 26, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 8973 (Sub-82), filed August 14, 1981. Applicant: METROPOLITAN TRUCKING, INC., 75 Broad Ave., Fairview, NJ 07022. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 44302 (Sub-15), filed August 17, 1981. Applicant: DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, 914–835–441. Transporting *general commodities* (except classes A and B explosives), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, and DC.

MC 105713 (Sub-4), filed August 17, 1981. Applicant: SERVICE TRUCK LINE OF TEXAS, INC., P.O. Box 811, Highway 90 East, Jennings, LA 70546. Representative: C. W. Ferebee, 14614 Falling Creek, Suite 124 Houston, TX 77068 (713) 537–8156. Transporting (1) *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production storage and transmission of commodities resulting from drilling operations at well or hole site, and (d) the injection or removal of commodities into or from holes or wells, between TX and LA, on the one hand, and, on the other, points in MS, AL, FL, AR, OK, NM, and CO.

MC 107012 (Sub-734), filed August 18, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant) (219) 429–2224. Transporting *general commodities* (except classes A and B explosives), between Longview, WA, and Portland, OR, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-735), filed August 19, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant) 219–429–2110. Transporting *such commodities* as are dealt in or used by manufacturers of packaging products, between points in

Los Angeles County, CA, Cook County, IL, and Gloucester County, NJ, on the one hand, and, on the other, points in the U.S.

MC 140283 (Sub-3), filed August 19, 1981. Applicant: McHENRY TRUCK LINE, INC., 3939 Albany St., McHenry, IL 60050. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *general commodities* (except classes A and B explosives), between points in McHenry County, IL, on the one hand, and, on the other, points in Winnebago County and Chicago, IL.

MC 140302 (Sub-4), filed August 20, 1981. Applicant: AMERICAN TANK TRANSPORT, INC., 6350 Ordnance Point Rd., Baltimore, MD. 21225. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *waste liquid products* (1) between points in CT, IN, ME, MA, NH, RI, and VT, on the one hand, and, on the other, Baltimore, MD, and (2) between points in CT, DE, IN, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, and WV, on the one hand, and, on the other, New York, NY and Philadelphia, PA.

MC 144622 (Sub-212), filed August 21, 1981. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021, 817–282–8344. Transporting *food and related products*, between points in Denver County, CO, Warren County, IL, Cass County, IN, Cherokee, Linn, Page, and Polk Counties, IA, Jefferson County, KY, Prince Georges County, MD, Freeborn County, MN, Saline County, MO, Douglas County,, NE, and Oklahoma County, OK, on the one hand, and, on the other, points in the U.S.

MC 145742 (Sub-9), filed August 14, 1981. Applicant: BOLES TRUCKING, INC., Rural Route No. 1, Ina, IL 62846. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701 (217) 344–5468. Transporting *iron and steel articles*, between points in the U.S., under continuing contract(s) with Jennmar Corporation, of Flora, IL.

MC 147323 (Sub-33), filed August 18, 1981. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 (216) 652–2789. Transporting *metals, machinery, transportation equipment and those commodities* which, because of size or weight, require the use of special handling, or special equipment, between points in the U.S., under continuing contract(s) with Douglas and Lomason Company, of Farmington Hills, MI.

MC 148482 (Sub-2), filed August 19, 1981. Applicant: CRUSADER COACH LINES, INC., 422 East 7th Street, Logan, IA 51546. Representative: David P. OLovell, Route #1, Logan, IA 51546 (712) 644–2308. Transporting *passengers and their baggage* in the same vehicle, in charter and special operations, between those points in NE east of U.S. Highway 83 and those in IA west of U.S. Highway 65, on the one hand, and, on the other, points in the U.S.

MC 149472 (Sub-8), filed August 20, 1981. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Rd., Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215–561–1030. Transporting *textile mill products*, between points in Cleveland County, NC, on the one hand, and, on the other, points in the U.S.

MC 151483 (Sub-2), filed August 21, 1981. Applicant: LOVE'S TRUCKING, INC., 1841 E. State Rte. 55, Troy, OH 45373. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *metal products*, between points in Delaware County, OH, on the one hand, and, on the other, points in the U.S.

MC 152353 (Sub-4), filed August 20, 1981. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Rte. 1, Eden, WI 53019. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *metal products*, between Chicago, IL and points in WI and MI.

MC 152602, filed August 3, 1981. Applicant: HENRY SCHMAELZLE, 85 Foxon Rd. Rear, New Haven, CT 06513. Representative: Henry D. Schmaelzle, Courtland 5–J, 640 Mix Ave., Hamden, CT 06514 (203) 248–1034. Transporting *telephone cable, reels, and scrap cable*, (a) between points in MA, CT, NY, NJ, PA, DE, and MD, and (b) between points in New Haven County, CT, on the one hand, and, on the other, Cicero, IL.

MC 154423, filed August 18, 1981. Applicant: RAY SHIPLEY, d.b.a. SHIPLEY CARPET, 1842 So. Main, Jacksonville, IL 62650. Representative: Michael W. O'Hara, 300 Reisch Bldg. Springfield, IL 62701 (217) 544–5468. Transporting *carpeting, cushions and glue*, between points in GA and Hamilton County, TN, on the one hand, and, on the other, points in IA, IL, IN, KY, and MO.

MC 154682, filed August 18, 1981. Applicant: LARRY BURKE AND GEORGE BROWN, d.b.a. BURKE & BROWN TRANSPORTATION, 129 Brighton WY., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306 (805) 872–1106. Transporting (1) *building materials*, between points in Josephine County , OR, on the one hand, and, on the other, points in AZ, ID, NM, TX, UT, and WA, and (2) *mercer commodities*, (a) between points in CA, on the one hand, and, on the other, points in CO, KS, LA, MT, ND, NM, NV, OK, OR, TX, UT, WA, and WY, (b) between points in MT, on the one hand, and, on the other, points in LA, OK, and TX, (c) between points in WY, on the one hand, and, on the other, points in CO, MT, ND, OK, OR, TX, UT, and WA, (d) between points in TX, on the one hand, and, on the other, points in ND, and (e) between points in NM, on the one hand, and, on the other, points in MT.

MC 154993, filed August 19, 1981. Applicant: H. & W. ENTERPRISES, South Witham Rd., Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114 (216) 781–1600. Transporting *textile mill products* between points in the U.S., under a continuing contract(s) with Carlton Woolen Milles, Inc., of Winthrop, ME.

MC 156993, filed August 20, 1981. Applicant: TAYLOR'S TRUCKING COMPANY, 1105 Pauline Ave., Charleston, SC 29402. Representative: David Popowski, P.O. Box 1064, Charleston, SC 29402, 803–722–8301. Transporting *forest products* and *lumber and wood products*, between points in the U.S., under continuing contract(s) with Champion International Corporation, of Hamilton, OH.

MC 157062, filed August 14, 1981. Applicant: BOB ROGERS TRUCKING INC., 1533 East Brill, Phoenix, AZ 85006. Representative: Bob Rogers (same address as applicant) (602) 253–8809. Transporting *pepper sauce, cocktail mixes, and table sauces*, between points in the U.S., under continuing contract(s) with McIlhenny Company, of Avery Island, LA.

MC 157892, filed August 13, 1981. Applicant: KRONEBUSCH FARMS, INC., R.R. #1, Box 3, Altura, MN 55910. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, LaCrosse, WI 54601 (608) 788–2000. Transporting *Food and related products*, between points in MN & WI on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, LA, AK, MO, IA, IL, MI, IN, OH, NY, PA, NJ, DEL, CT, MA, RI, NY, VT, ME, MD, VA, WV, KY, TN, NC, SC, GA, TN, MS, AL, and FL.

MC 157732, filed August 17, 1981. Applicant: TRIANGLE TRANSPORTATION, INC., 4219 N.

Produce Plaza, Los Angeles, CA 90058. Representative: Fred H. Mackensen, Suite 4150, 2029 Century Park East, Los Angeles, CA 90067 (213) 879–5955. Transporting *general commodities* (except classes A and B explosives, between points in CA.

MC 157733, filed August 17, 1981. Applicant: BRANTLEY SEASHORE COACH TOURS, 1106 Tremont Road, Wilson, NC 27893. Representative: Luray D. Brantley (same as applicant) (919) 291–9882. As a *broker* at Wilson, NC, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations, between points in NC, on the one hand, and, on the other, points in the U.S.

MC 157813, filed August 20, 1981. Applicant: LEISURE–WAY TRAVELERS, LTD., 109 South 17th Ave., Wausau, WI 54401. Representative: Glenn E. Schneider (same address as applicant) 715–842–3233. As a *broker*, at Wausau, WI, in arranging for the transportation by motor vehicle of *passengers and their baggage*, between points in Vilas, Oneida, Lincoln, Langlade, Marathon, Portage, Wood, Clark, Taylor, and Price Counties, WI, on the one hand, and, on the other, points in the U.S.

Volume No. OPY–3–157

Decided: August 28, 1981.

By the Commission, Review Board Number 2, Members Carleton, Kelly, and Williams. Member Williams not participating.

MC 109865 Sub 20, filed August 24, 1981. Applicant: VALLEY TRANSPORTATION INC. t/a CONNECTICUT AMERICAN CHARTERS, 516 Oxford Rd., Oxford, CT 06483. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg, 6121 Lincolnia Rd., Alexandria, VA 22312 (703) 750–1112. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at New York, NY, and points in Westchester and Nassau Counties, NY and extending to points in the U.S.

MC 126045 (Sub-40), filed August 21, 1981. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, 1010 South Farragut Street, Davenport, IA 52808. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603 (312) 236–9375. Transporting *metal products*, between points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, PA, SD, TN, TX and WI.

MC 138875 (Sub-308), filed August 20, 1981. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same address as applicant) (208) 376–5757. Transporting *structural wood*, between points in OR, on the one hand, and, on the other, points in IA, IL, IN, KS, MI, MN, MO, NE, OH, and WI.

MC 146765 (Sub-7), filed August 21, 1981. Applicant: DAYTON ENTERPRISES, INC., 110 First Avenue, Clarence, IA 52216. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016 (312) 298–1094. Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in CO, KS, MO, MT, NM, ND, OK, SD, TX, and WY.

MC 148445 (Sub-6), filed August 21, 1981. Applicant: WLD TRUCKING COMPANY, 4527 N. 16th St., Phoenix, AZ 85064. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting *printed matter*, between points in the U.S., under continuing contract(s) with Ingram Book Company of Nashville, TN.

MC 150134, filed August 24, 1981. Applicant: SAVINI MOTORS, INC., 2445 N. Marmora Ave., Chicago, IL 60639. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting (1) *pulp, paper and related products*, (2) *chemicals and related products*, and (3) *waste or scrap materials not identified by industry producing*, between points in Cook County, IL, on the one hand, and, on the other, points in IN, IA, KY, MI, MN, MO, OH and WI.

MC 157755, filed August 18, 1981. Applicant: MICHIANA NEWS SERVICE, INC., 2232 S. Eleventh St., Niles, MI 49120. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives), between the facilities of U.S. Aviex Company and Simplicity Pattern Co., Inc., at Niles, MI, on the one hand, and, on the other, points in the U.S.

MC 157774, filed August 21, 1981. Applicant: CHRISTIAN TOURS, INC., 2241 Laneway Circle, Oklahoma City, OK 73159. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034, (405) 348–7700. Transporting *passengers and their baggage*, in the same vehicle with passengers in round-trip, charter and special operations, beginning and ending at points in OK, and extending to points in TX, KS, CO, NM, AR, TN, MS, MO and LA.

MC 157794, filed August 20, 1981. Applicant: AEPHYR FACTORS, INC., P.O. Box 206, Bend, OR 97701. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *construction material*, between points in OR, on the one hand, and, on the other, points in CA, CO, ID, MT, NV, UT, WA, and WY.

MC 157795, filed August 20, 1981. Applicant: ADAMS TRAVEL SERVICE, 130 Market Square, Newington, CT 06111. Representative: James Adams (same address as applicant) (203) 667–0843. As a *broker*, at Newington, CT, in arranging for the transportation, by motor vehicle, of *passengers*, in charter operations, beginning and ending at points in Hartford, CT, and extending to points in the U.S.

MC 157814, filed August 20, 1981. Applicant: WALTER J. BUSKE, d.b.a. WALLY'S CARTAGE, 1917 N. Monroe, Litchfield, IL 62056. Representative: Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *general commodities* (except classes A and B explosives), between points in Montgomery County, IL, on the one hand, and, on the other, points in Montgomery, Macoupin, Jersey, Bond, Madison, St. Clair and Clinton, IL.

MC 157834, filed August 21, 1981. Applicant: MAKO SERVICES, INC., P.O. Box 71, Monson, MA 01075. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with James River Graphics, Inc., of South Hadley, MA.

MC 146404 (Sub-4), filed July 28, 1981, previously noticed in the Federal Register on August 13, 1981. Applicant: C & J TRUCKING, INC., 2200 McKinley Ave., Columbus, OH 43215. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transportating *metal products*, between Columbus, OH, and points in Butler County, OH, on the one hand, and, on the other, points in IN, IL, KY, MI, and WV.

Note.—This republication corrects the territorial description.

Volume No. OPY–4–347

Decided: August 28, 1981.

By the Commission, Review Board Number 2, Members Carleton, Kelly, and Williams.

MC 34087 (Sub-14), filed August 14, 1981. Applicant: NORMAN HILLS, Route 60, Fredonia, NY 14063. Representative: Norman Hills (same address as applicant), (716) 672–4312.

Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Heinz USA, Div. of H. J. Heinz Co., of Pittsburgh, PA, Giant Eagle Markets, Inc., of Pittsburgh, PA, Purex Corporation, of St. Louis, MO, Anaconda Industries-Brass Division, of Kenosha, WI, Swift & Company, of Chicago, IL, Acquarium Systems, Inc., of Mentor, OH, Continental Can Company, U.S.A., of Wayne, NJ, O-Cel-O/A, Division of General Mills, Inc., of Tonawanda, NY, Stover & Co., Inc., of Cheswick, PA, Ball Corporation, of Muncie, IN, The Red Wing Company, Inc., of Fredonia, NY, American Can Company, of Greenwich, CT, and Seaboard Allied Milling Corporation, of Shawnee Mission, KS.

MC 145557 (Sub-17), filed August 14, 1981. Applicant: LIBERTY TRANSPORT, INC., P.O. Box 9182, Kansas City, MO 64148. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842-8600. Transporting *food and related products,* between the facilities of Amour Food Company, at points in CA, TX, SD, KY, NE, ID, MD, MN, WI, IA, PA, OR, and IL, on the one hand, and, on the other, points in the U.S.

MC 147777 (Sub-4), filed August 18, 1981. Applicant: TRAVEL TIME BUS LINES, INC., 99 Arnold St., Springfield, MA 01119. Representative: Robert M. Santaniello, Esq., 95 State Street, Suite 1010, Springfield, MA 01103. Transporting *passengers and their baggage in special and charter operations,* beginning and ending at points in Berkshire, Hampden, Hampshire, Franklin and Worcester Counties, CT and extending to points in the U.S.

MC 152207 (Sub-1), filed August 17, 1981. Applicant: C.W.C. CO., 4700 Quebec Ave., New Hope, MN 55428. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. Transporting *building materials* between points in Harris County, TX, on the one hand, and, on the other, points in IA, IL, MN, ND, SD and WI.

MC 156227, filed August 17, 1981. Applicant: STATELINE SYSTEMS, INC., P.O. Box 101020, Nashville, TN 37210. Representative: Stephen L. Edwards, 315 Union Street, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. Transporting *general commodities (except classes A & B explosives) having a prior or subsequent movement by rail* between Shelby County, TN, on the one hand, and, on the other, points in TN.

MC 157037, filed August 17, 1981. Applicant: SPICER TRUCKING, Hwy 81 North, Grand Forks, ND 58201. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402-1026. Transporting *food and related products,* between the facilities of the Pillsbury Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 157637, filed August 10, 1981. Applicant: OILEX TANK LINES, INC., P.O. Box 2087, Sebastian, FL 32958. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518, (215) 385-6086. Transporting *petroleum products,* between the facilities of Truck World, Inc., at points in IN, MI, OH, PA, and WV, on the one hand, and, on the other, points in IN, MI, OH, PA, and WV.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25804 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 155]

Motor Carriers; Permanent Authority Decisions Restriction Removals; Decision-Notice

Decided: August 31, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C 10922(h).

In the absence of a comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

FF 487 (Sub-1)X, filed: August 18, 1981. Applicant: STEVENS FORWARDERS, INC., 121 S. Niagara Street, Saginaw, MI 48605. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. Applicant seeks to remove restrictions from its FF-487 certificate by changing used household goods to "household goods" and changing used automobiles to "transportation equipment," and by removing "excluding AK"; and by removing its restriction against the transportation of import-export traffic..

MC 1893 (Sub-12)X, filed: August 17, 1981. Applicant: SPOKANE—ST. MARIE'S AUTO FREIGHT, INC., Spokane Industrial Park, Bldg. N-7, 3808 North Sullivan, Spokane, WA 99216. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-Nos. 9 and 10 certificates to (A) broaden the commodity description from beverages and wines to "food and related products" in Sub-No. 10; (B) remove "in bulk" restriction in Sub-No. 10; and (C) authorize radial service in Sub-Nos. 9 and 10.

MC 8515 (Sub-44)X, filed: August 24, 1981. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2, 3, 4, 6, 8, 9, 10, 15F, 23F, 24F, 40F, and 41 certificates to (1) broaden the general commodities descriptions by eliminating all exceptions other than classes A and B explosives, in each certificate above except Sub-No. 23F, and eliminate except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment in Sub-No. 23F; (2) allow service at all intermediate points on its regular route authority as follows: (a) between Princeton and Chicago, IL in the lead; (b) between Rock Falls and Prophetstown, IL in Sub-No. 8; (c) between Metamora, IL and junction U.S. Hwys. 52 and 66 in Sub-No. 6; (d) between Peoria and Mapleton, IL in Sub-No. 9; and (e) between Davenport, IA and Princeton, Rockland, Peoria and Galva, IL in Sub-No. 24F; and (3) remove the except AK and HI restriction on its irregular routes in Sub-Nos. 40F and 41.

MC 34767 (Sub-44)X, filed August 12, 1981. Applicant: GOOD'S TRANSFER,

INC., 234 Charles Street, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Applicant seeks to remove restrictions in its lead and Sub-No. 42 certificates to (1) broaden certain commodity descriptions to: (a) "farm products" from alfalfa meal, livestock and hay; (b) "food and related products" from butter and dressed poultry, food products, meats, packinghouse products, and frozen foods, dressed poultry, frozen foods, canned foods, poultry and eggs, eggs (other than frozen), fresh fruits, fresh fruits and vegetables, apples and peaches, apples, ingredients for animal and poultry food and meat scrap, feeds, feed materials, feed materials and seeds, cottonseed meal, corn, wheat, flour, flour and mixed feed, coffee and tea, malt beverages, feathers, offal of fowls and animals and oils, greases and solids therefrom, feather meal in bulk and in bags, feathers in bags, dressed poultry fresh or frozen, and poultry plant and packinghouse waste products; (c) remove all exceptions in the general commodities authority "except classes A and B explosives"; (d) "petroleum, natural gas and their products" from oils and greases, and inedible oil and grease; (e) "pulp, paper and related products, and rubber and plastic products" from bags, empty containers for feathers, and empty bags; (f) "farm products and food and related products" from farm and dairy products (other than frozen); (g) "lumber and wood products, pulp, paper and related products, rubber and plastic products," from egg cases and chicken coops; (h) "lumber and wood products, and food and related products" from egg crates and fresh fruits; (i) "chemicals and related products, and food and related products" from fertilizer and wholesale grocery products; (j) "chemicals and related products" from fertilizer and fertilizer materials, and fungicides and insecticides; (k) "food and related products and machinery" from feed and feed materials, hardware and wholesale food products; (l) "clay, concrete, glass or stone products" from bottles, and marble and marble products; (m) "machinery" from bottle washing machine parts and fittings, and dairy and refrigeration equipment; (n) "petroleum, natural gas and their products, and machinery" from oils, greases, and filling station equipment; (o) "lumber and wood products" from lumber, and empty barrels; (p) "building materials" from roofing; (q) "metal products" from small castings, empty containers used in the transportation of the commodities specified on sheet 10, para 8; (r) "furniture and fixtures" from pianos; (s) "coal and coal products" from coal; (t) "containers" from empty malt beverage containers; and (u) "commodities in bulk" from offal of fowl in bulk or in barrels, in the lead certificate; and in Sub-No. 42, "food and related products" from animal and poultry feed ingredients and supplements; (2) broaden regular-route authorities in the lead certificate to: authorize service at all intermediate points; remove restrictions limiting service to "delivery only" or "pickup only," and specifying "other than Timberville, VA and points within 10 miles thereof" on service from Rockingham County (sheet 6, para 3); and change one-way service to authorize two-way authority; (3) broaden off-route points in the lead certificate to county-wide authority as follows: Shenandoah, Rockingham, Augusta and Page Counties, VA (Lantz Hills, Broadway, Timberville, Weyers Cave, Elkton, Bridgewater, Luray, and Stanley, VA): Albemarle, Augusta, Greene, Madison, Page, Rockingham and Shenandoah Counties, VA (points within 25 miles of Harrisonburg, VA): and, Page, Rockingham and Warren Counties, VA (Shenandoah, Elkton, Luray, Stanley, Dayton, Front Royal, and Riverton, VA); (4) broaden irregular-route authorities in the lead and Sub-No. 42 certificates to substitute radial authority in place of one-way service; and broaden named points to county-wide authority as indicated: lead certificate, Rockingham County, VA (Broadway, VA and points within 2 miles thereof): Frederick County, VA (Alma, VA and points within 2 miles of Alma): Albermarle County, VA (Crozet and Greenwood, VA): Shenandoah County, VA (New Market, VA and points within 4 miles thereof): Augusta County, VA (Stuarts Draft, VA and points within 4 miles thereof): Pendleton County, WV (Brandywine, WV): Hardy County, WV (Moorefield, WV): Shenandoah County, VA (Strasburg, Edinburg, Woodstock, and Mt. Jackson, VA): Page County, VA (Luray, Shenandoah, and Stanley, VA): Frederick County, VA (Stephens City, VA): Pulaski County, KY (Somerset, KY): Grant and Hardy Counties, WV (Moorefield, WV and points in WV within 12 miles thereof): Washington County, MD (Hagerstown, MD): Frederick County, MD (Knoxville and Frederick, MD): Gloucester County, NJ (Pitman, NJ): Jefferson County, PA (Schwenckville, PA): Orange County, VA (Orange, VA): Warren County, VA (Front Royal, VA): Fauquier County, VA (Marshall and Warrenton, VA): Rockingham County, VA (Bridgewater, Broadway, Elkton, Timberville, Cross Keys, Lantz Mills, Mt. Crawford, and Linville, VA): Page, Rockingham and Shenandoah Counties, VA (Timberville, VA and points in VA within 10 miles thereof): Augusta County, VA (Fishersville, Crimora, Weyers Cave, Mt. Solon, and Fort Defiance, VA): Albemarle, Augusta, Greene, Page, Rockingham and Shenandoah Counties, VA (points in VA within 20 miles of Harrisonburg, VA): Adams County, PA (Gettysburg, PA): Berkeley County, WV (Martinsburg, WV): Hampshire County, WV (Romney, WV): Newport News, VA (Denbigh, VA): Jefferson County, WV (Charles Town and Shepherdstown, WV): Essex County, NJ (Irvington, NJ): Hudson County, NJ (Harrison, NJ): Sussex County, NJ (Newton, NJ): Howard County, MD (Ellicott City, MD): Botetourt County, VA (Cloverdale, VA): Rockbridge County, VA (Raphine, VA): Culpeper County, VA (Culpeper, VA): Anne Arundel County, MD (Camp Meade, MD): Kershaw County, SC (Kershaw and Camden, SC): Lee County, SC (Bishopville, SC): Lancaster County, SC (Lancaster, SC): Darlington County, SC (Hartsville, SC): Wake County, NC (Raleigh, NC): Cabarrus County, NC (Concord, NC): Gaston County, NC (Gastonia, NC): Forsyth, Davidson, Davie and Yadkin Counties, NC (Winston-Salem, NC): Randolph and Guilford Counties, NC (High Point, NC): Stokes and Rockingham Counties, NC (Pine Hall, NC): Chester County, SC (Lando, SC): York County, SC (Rock Hill, SC): Chesterfield County, SC (Pageland, SC): Fairfield County, SC (Winnsboro, SC): Albemarle, Augusta, Greene, Madison, Page, Rockingham and Shenandoah Counties, VA (points in VA within 25 miles of Harrisonburg, VA): Rockingham County, NC (Reidsville, NC): Guilford County, NC (Greensboro, NC): York County, PA (York and Cly, PA): Lancaster County, PA (Lancaster, PA): Philadelphia County, PA (Lester, PA): Schuylkill County, PA (Pottsville and Tower City, PA): Dauphin County, PA (Lykens and Williamstown, PA): Allegany County, MD and Mineral County, WV (Cumberland, MD): Berks County, PA (Reading, PA): Rockingham County, PA (points on a described highway between Broadway and Timberville, VA): and Jessamine County, KY (Nicholasville, KY); and in Sub-No. 42, Rockingham County, VA (Linnville, VA).

MC 43038 (Sub-499)X, filed August 11, 1981. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive—4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 29725 Shacket Avenue,

Madison Heights, MI 48071. Applicant seeks to remove restrictions from its lead and Sub-No. 444 certificates, in part, to (1) in the lead, sheet 11, broaden the commodity description from new automobiles, automobile bodies, automobile chassis, and automobile parts and accessories moving in connection therewith, automobile show equipment and paraphernalia, and farm and garden tractors and parts and accessories thereof moving in connection therewith, in initial movements, in truckaway and driveaway service, to "Machinery"; sheet 13, from cable reel carriers, in initial movements, in truckaway service, to "Machinery"; from utility rental property trailers, designed to be drawn by passenger automobiles, in truckaway service, to "transportation equipment"; sheet 14, from farm tractors, except those the transportation of which, because of size or weight, requires the use of special equipment, to "machinery"; Sheet 15, from lumber to "lumber or wood products except furniture"; and in Sub-No. 444, paragraph 1, broaden the commodity description from farm tractors, moving in mixed loads with automobiles and trucks authorized below, to "machinery"; (2) in the lead, sheet 11, replace Willow Run with Washtenaw County, MI; in Sheet 13, eliminate the "AK and HI" exceptions on its nationwide authority; (3) in Sub-No. 444, paragraph 1, remove the "originating at" facilities restriction and eliminate the ex-rail or ex-water restriction; and (4) replace existing one-way authority with radial authority in the above referred to portions of the certificates.

MC 59117 (Sub-86)X, filed August 24, 1981. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Patricia F. Scott, P.O. Box 258, Liberty, MO 64068. Applicant seeks to remove restrictions in its Sub-No. 76F certificate to (1) remove the fuels exception and (2) broaden territorial description to county-wide authority from points along the Arkansas and Verdigris Rivers in Muskogee, Tulsa and Rogers Counties in OK to points in the above named counties.

MC 66571 (Sub-13)X, filed August 17, 1981. Applicant: RED LINE, INC., 2310 Orange Avenue, N.E., Roanoke, VA 24168. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its Sub-Nos. 8F, 9F, and 10F certificate to (1) broaden the commodity description from cleaning products to "chemicals and related products" in Sub-Nos. 8F and 9F, and from plastic containers to "containers" in Sub-No. 10F, (2) change city to county-wide authority from Bristol, PA, South Kearney and Hackensack, NJ and New Castle, DE to Bucks County, PA, Essex, Hudson and Bergen Counties, NJ, and New Castle County, DE in Sub-No. 8F, (3) remove facilities limitation at specified points in Sub-Nos. 8F and 10F, (4) remove in bulk restriction in Sub-Nos. 8F and 9F, (5) change one-way to radial authority in all Subs.

MC 98701 (Sub-8)X, filed August 20, 1981. Applicant: CLEVELAND EXPRESS, INC., P.O. Box 158, Cleveland, TN 37311. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Applicant seeks to remove restrictions in its Sub-Nos. 2, 3, and 6F certificates to broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)".

MC 105501 (Sub-53)X, filed March 23, 1981, published in the **Federal Register** of April 10, 1981, republished as follows. Applicant: TERMINAL TRANSPORT, INC., 1851 Raddison Rd., N.E., Blaine, MN 55434. Representative: Anthony C. Vance, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Applicant seeks to remove restrictions in its lead and 22 Sub-No. certificates. This Board previously broadened these authorities by (1) expanding the commodity descriptions, (2) removing named facility limitations and "originating at/destined to" restrictions, (3) broadening cities to counties and (4) replacing one-way operations with two-way radial authority. Applicant also sought to broaden points in a mileage radii to points in the appropriate counties. The Board did not publish as to that part of the application, contending that the restriction removal rules did not allow for the expansion of mileage radii territory descriptions to counties. Because of a recent Commission decision allowing for the expansion of mileage radii territorial descriptions to counties, the Board has decided to renotice the application. Notice is hereby given that applicant seeks to substitute "points in Roberts, Marshall, and Day Counties, SD and points in Richland and Sargent Counties, ND" for points in North Dakota and South Dakota within 30 miles of Rosholt, SD in Sub-No. 2: "points in Polk, Norman, Mahnomen and Red Lake Counties, MN" for points within 20 miles of Mentor, MN, in Sub-No. 4, and "points in Isanti, Chisago, Sherourne, Wright, Carver, Scott, Dakota, Washington, Hennepin, Rice, Le Seur, Anoka, and Ramsey Counties, MN" for points in Minnesota within 35 miles of Minneapolis, MN, including Minneapolis, in the lead.

MC 109443 (Sub-35)X, filed August 24, 1981. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, PA 18512. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Applicant seeks to remove restrictions in its Sub-Nos. 22, 25, 27 and 29F certificates to (1) broaden the commodity description from dry litharge, in bulk, or litharge, dry, in bulk to "commodities in bulk"; (2) replace Dunmore, PA, with Lackawanna County, PA; and (3) change its one-way to radial authority between points in Lackawanna County, PA, and, points in several States.

MC 114533 (Sub-375)X, filed August 17, 1981. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Arthur E. Yeske (same as applicant). Applicant seeks to remove restrictions in its MC-128616 and Sub-Nos. 5, 6, 7, 8, 13, 16, 19, 20, 23, 24, 25, 27F, 30F and 31F permits to broaden the territorial scope to "between points in the United States" under continuing contract(s) with banks and banking institutions, including bank-owned computer companies.

MC 119741 (Sub-306)X, filed August 17, 1981. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). Applicant seeks to remove restrictions from its Sub-No. 265F and 269F certificates to (1) broaden the commodity descriptions from advertising matter, magazines, periodicals, printed matter, and equipment, materials, and supplies used in the printing/publishing business in Sub-No. 265F and paper and paper products in Sub-No. 269F to "pulp, paper and related products"; (2) replace named facilities at Dayton, OH with Montgomery County, OH in Sub-No. 265F, and replace named facilities at Hazelwood, MO with St. Louis County, MO in Sub-No. 269F; and (3) replace existing one-way authority with radial authority in each of the above-numbered certificates.

MC 123675 (Sub-9)X, filed August 20, 1981. Applicant: SOLDIER BROS. A B T LINE, INC., 614 Paine Ave., Toledo, OH 43605. Representative: Keith D. Warner (same as applicant). Applicant seeks to remove restrictions in its lead certificate to (a) change its one-way to radial authority, and (b) remove the restriction against tacking in parts 1 to 6.

Note.—Carrier's ability to tack will be governed by 49 CFR 1042.10(b).

MC 124170 (Sub-184)X, filed August 24, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions in its Sub-No. 96F certificate to (1) remove except commodities in bulk, in tank vehicles restriction; (2) remove plantsite restriction and replace Paducah, KY, with McCracken County, KY; (3) remove AK and HI restriction and (4) remove originating at or destined to the named facilities restriction.

MC 124174 (Sub-184)X, filed August 14, 1981. Applicant: MOMSEN TRUCKING CO., 2405 Hiway Boulevard, Spencer, IA 51301. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its lead and Sub-No. 182 certificates to (i) in the lead: (a) broaden from general commodities, with several exceptions, to "general commodities (except classes A and B explosives)"; (b) broaden authority to serve all intermediate points and replace one-way with two-way authority; (c) delete restrictions against service on specified commodities to and from off-route points, and against pickup and delivery; (d) broaden off-route points at Knoxville, Ackworth, Indianola, Adel, Dexter, Casey, Anita, Atlantic, Oakland, Pleasantville, Beech, Menlo, Grinnell and Gilman, IA and points within 35 miles of Oskaloosa, IA and within 5 miles of Gilman, IA in A(1)(a) to Marion, Warren, Dallas, Adair, Cass, Pottawattamie, Guthrie, Poweshiek, Jasper, Mahaska, Keokuk, Jefferson, Wapello, Davis, Appanoose, Monroe, Lucas, Warren, Polk and Marshall Counties, IA; (e) broaden off-route points at Rock Island, Moline, Rock Falls, East Moline and Sandwich, IL and points within 35 miles of Oskaloosa and 5 miles of Gilman, IA in A(1)(b) to Rock Island, Moline, Rock Falls, East Moline and Dekalb County, IL, and Jasper, Mahaska, Poweshiek, Iowa, Keokuk, Jefferson, Wapello, Davis, Appanoose, Monroe, Lucas, Warren, Marion, Polk and Marshall Counties, IA, (f) broaden A(2) from livestock and agricultural commodities to "farm products and agricultural commodities", (g) expand off-route points of New Market, IA and points within 10 miles of Gravity, IA and Hopkins, MO to Taylor and Page Counties, IA and Nodaway County, MO, (h) expand commodity in A(3) from livestock to "farm products"; (i) broaden off-route points within 35 miles of Oskaloosa and 5 miles of Gilman, IA; in A(3) (a) and (b) to Jasper, Mahaska, Poweshiek, Iowa, Keokuk, Jefferson, Wappello, Davis, Appanoose, Monroe, Lucas, Warren, Marion, Polk and Marshall Counties, IA, (j) expand B(1) from flour, feed, and building materials to "food and related products and building materials"; (k) broaden off-route points within 15 miles of Wiota, IA to Cass County, IA; (l) broaden livestock authority in B(2) to "farm products"; (m) broaden off-route points within 15 miles of Sherburn, MN, in B(2) to Martin, Wantonwan, Cottonwood and Jackson Counties, MN and Dickinson and Emmet Counties; IA; (n) broaden in B(3) from silo materials, to "farm products"; (o) expand off-route points within 15 miles of Sherburn, MN to Martin, Wantonwan, Cottonwood and Jackson Counties, MN, Dickinson and Emmet Counties, IA, in B(3); (p) delete interline restriction in B(4); (q) expand from Stillwater, Fairmont, Owatonna, Hopkins and Mankato, MN, and Swea City, IA and points within 25 miles of Swea City, IA to Washington, Martin, Steele, Hennepin and Blue Earth Counties, MN and Kossuth, Emmet, Palo Alto, Hancock and Winnebago Counties, IA and Martin and Faribault Counties, MN, in B(4) (a); (r) expand B(4)(b) from Spencer, IA to Clay County, IA and delete interline restriction; (s) expand B(4)(c) from Anita, IA and points within 15 miles thereof to Cass, Adair, Guthrie and Audubon Counties, IA; (t) change B(5) from points in NE, IA, KS, and MO within 60 miles of Auburn, NE, to Richardson, Pawnee, Jefferson, Nemaha, Johnson, Gage, Otoe, Lancaster and Saline Counties, NE; Taylor, Fremont, Page, Montgomery, Mills and Pottawattamie Counties, IA; Marshall, Nemaha, Brown, and Doniphan Counties, KS; and Atchison, Nodaway, Holt and Andrew Counties, MO, (u) change B(6) from livestock to "farm products"; (v) change B(6) from Swea City, IA and points within 25 miles of Swea City and points in Minnesota within 100 miles of the Iowa-Minnesota State line to Kossuth, Emmet, Palo Alto, Hancock and Winnebago Counties, IA; Martin and Faribault, Counties, MN and Lac Qui Parle, Yellow Medicine, Lincoln, Pipestone, Rock, Nobles, Murray, Lyon, Chippewa, Kandiyohi, Renville, Redwood, Cottonwood, Jackson, Watonwan, Brown, Meeker, McLeod, Sibley, Nicollett, Blue Earth, Freeborn, Waseca, Le Sueur, Carver, Hennepin, Scott, Rice, Steele, Mower, Dodge, Goodhue, Dakota, Washington, Ramsey, Wabasha, Olmstead, Fillmore, Winona, and Houston Counties, MN, (w) broaden B(7) from livestock, and feed, to "farm products and food and related products," (x) expand from Auburn, NE, and points within 20 miles thereof and St. Joseph, MO to Nemaha, Otoe, Johnson, Pawnee and Richardson Counties, NE, Fremont County, IA, and Atchison and Holt Counties, MO, and Buchanan County, MO; (y) expand B(8) from animal and poultry feed and animal and poultry feed ingredients to "food and related products"; (z) expand B(8) from Racine County, WI to Burlington, WI, (aa) expand B(9) from cottonseed meal, cottonseed cakes, and cottonseed pellets, to "food and related products"; (bb) expand B(10) from seed and grain dryers, knocked down, to "machinery"; (cc) replaced Des Moines, IA in B(10) with Polk County, IA; (dd) expand B(11) from fly spray and mange oil, in drums or cans, empty bags and sacks, and advertising material used in connection with the sale and distribution of animal and poultry feed, and fly spray and mange oil to "such commodities as are dealt in by farm supply stores"; (ee) expand Burlington, WI, to Racine County, WI, in B(11); (ff) broaden B(13) from Cherokee, Emmetsburg, Le Mars, Sheldon, Sioux City, Spencer, Storm Lake, Algona, Chalton, Grinnell, Estherville, Charles City, Clinton, Webster City, Waverly, Iowa Falls, Carroll, Oelwein, Ft. Madison, Red Oak, Centerville, Clarinda, Ft. Dodge, Perry, Atlantic, Waterloo, Boone, Marshalltown, Harlon, Denison, Albia, Maquoketa, Knoxville, Fairfield, Creston, Waukon, Decorah, Shenandoah, Manchester, and Jefferson, IA, to county-wide authority of Cherokee, Palo Alto, Plymouth, O'Brien, Woodbury, Clay, Buena Vista, Kossuth, Lucas, Poweshiek, Emmet, Floyd, Clinton, Hamilton, Bremer, Hardin, Carroll, Fayette, Lee, Montgomery, Appanoose, Page, Webster, Dallas, Cass, Black Hawk, Boone, Marshall, Shelby, Crawford, Monroe, Jackson, Marion, Jefferson, Union, Allamakee, Winneshiek, Fremont, Delaware, Wright and Greene Counties, IA; (gg) expand B(14) from O'Neill, Wayne, Norfolk, Fremont, and Westpoint, NE, to countywide authority of Holt, Wayne, Madison, Dodge and Cuming Counties, NE; (hh) change B(15) from malt beverages to "food and related products"; (ii) broaden B(15) from Estherville and Spencer, IA to Emmet and Clay Counties, IA; (jj) broaden B(17) from beverages and gas in cylinders to "food and related products, and petroleum, natural gas and their products"; (kk) broaden Algona and Sibley, IA to Kossuth and Osceola Counties, IA, in B(17); (ll) expand B(19) from animal and poultry feed, and animal and poultry feed ingredients, to

"food and related products"; (mm) expand B(19) from Mankato, Howard Lake, New Prague, Minneapolis and St. Paul, MN, Omaha, Fremont, Arlington and South Sioux City, NE, and Owen, Mishicot, Livingston, Fenceville, Green Bay, and Burlington, WI, Spencer, IA and points within 50 miles of Spencer, IA to Blue Earth, Wright, Le Sueur and Scott Counties, and Minneapolis and St. Paul, MN, Omaha, NE, and Dodge, Washington and Dakota Counties, NE, and Clark, Manitowoc, Grant,. Milwaukee, Brown and Racine Counties, WI, and Dickinson, Emmet, Kossuth, Clay, Palo Alto, Humboldt, Webster, Pocahontas, Calhoun, Sac, Buena Vista, Ida, Cherokee, Plymouth, O'Brien, Sioux, Lyon and Osceola Counties, IA, and Cottonwood, Nobles, Jackson and Martin Counties, MN; (nn) broaden B(20) from alfalfa meal to "food and related products"; (oo) broaden Lake Park, IA to Dickinson County, IA in B(20); (pp) expand B(21) from canned goods to "food and related products"; (qq) expand B(21) from Dekalb and Rochelle, IL, and Davenport, IA to Dekalb and Ogle Counties, IL, and Scott County, IA; (rr) broaden B(22) from livestock to "farm products"; (ss) broaden B(22) from Pleasantville, IA, and points within 15 miles thereof to Polk, Jasper, Marion and Warren Counties, IA; (tt) expand Des Moines, IA to Polk County, IA; (uu) change B(22) (d) and (e), points within 100 miles of Des Moines, IA (except Pleasantville, IA and points within 15 miles thereof) to Page, Taylor, Ringgold, Decatur, Wayne, Appanoose, Davis, Van Buren, Jefferson, Wapello, Monroe, Lucas, Clark, Union, Adams, Montgomery, Pottawattamie, Cass, Adair, Madison, Warren, Marion, Mahaska, Keokuk, Washington, Johnson, Iowa, Poweshiek, Jasper, Polk, Dallas, Audubon, Shelby, Crawford, Carroll, Greene, Boone, Story, Marshall, Tama, Benton, Linn, Buchanan, Black Hawk, Grundy, Hadrin, Hamilton, Webster, Calhoun, Sac, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Bremer, Floyd, Cerro Gordo, Hancock, Kossuth, Guthrie Counties, IA;

Ottumwa, IA to Wapello County, IA; and St. Joseph, MO to Buchanan County, MO; (vv) change B(23) from paints, oils, glass, and painters' supplies to "chemicals and related products and building materials"; (ww) broaden B(23) Orange City, IA to Sioux County, IA; (xx) broaden B(24) from eggs and butter to "food and related products"; (yy) broaden B(24) from Orange City, Boyden, Sanborn, Rock Valley, Sheldon, Matlock, and Hull, IA to Sioux and O'Brien Counties, IA; (zz) broaden B(25) from dressed poultry to "food and related products"; (aaa) broaden B(25) from Orange City, Boyden, Sanborn, Rock Valley, Sheldon and Alton, IA to Sioux and O'Brien Counties, IA; (bbb) expand B(26) from fresh meats to "food and related products"; (ccc) expand B(26) from Spencer, IA and Joliet, IL to Clay County, IA and Will County, IL; (ddd) broaden B(27) from meats, meat products, and meat by-products, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 to "food and related products"; (eee) expand B(27) from Spencer, IA to Clay County, IA; (fff) broaden B(28) from roofing to "building materials"; (ggg) broaden B(28) from Chicago, Heights, and Wilmington, IL, Altoona, Blairstown, Colfax, Fairfax, Killduff, Mingo, Mitchellville, Newton, Norway, Pleasantville, Reasonor, Sully, Taintor, and Tracy, IA to Cook and Will Counties, IL, Polk, Benton, Jasper, Linn, Marion, and Mahaska Counties, IA; (hhh) expand B(29) from agricultural implements to "machinery and metal products"; (iii) expand B(29) from Moline, IL, and Menlo, IA to Rock Island County, IL, and Guthrie County, IA; (jjj) broaden B(30) from agricultural implements and machinery, tractors, and binder twine to "machinery, metal products and textile mill products"; (kkk) expand B(30) from Eddyville, Taintor, Monroe, New Sharon, Knoxville, Sigourney, and What Cheer, IA to Wapello, Mahaska, Jasper, Marion and Keokuk Counties, IA; (lll) expand B(31) from binder twine to "textile mill products"; (mmm) expand B(31) from New Sharon, IA and points within 15 miles of New Sharon to Jasper, Poweshiek, Keokuk, Mahaska and Marion Counties, IA; (nnn) expand B(32) from farm machinery to "machinery"; (ooo) expand B(32) from Rock Island, Sterling, and Sandwich, IL, and New Sharon, IA and points within 15 miles of New Sharon to Rock Island, Whiteside and Dekalb Counties, IL and Jasper, Poweshiek, Keokuk, Mahaska and Marion Counties, IA; (ppp) expand B(33) from farm machinery and parts, binder twine, and animal feed to "machinery, food and related products and textile mill products"; (qqq) expand B(33) from Rock Island and Moline, IL and Pleasantville, IA to Rock Island County, IL and Marion County, IA; (rrr) expand B(34) from fresh fruits and vegetables to "food and related products"; (sss) expand B(34) from Oskaloosa, IA to Mahaska County, IA; (ttt) expand B(35) from fruit to "food and related products"; (uuu) expand B(35) from Oskaloosa, IA to Mahaska County, IA; (vvv) expand B(36) from Chicago Heights, IL, Pleasantville, IA and points within 15 miles of Pleasantville, to Cook County, IL, and Polk, Jasper, Marion and Warren Counties, IA. (II) in Sub-No. 182, (a) broaden authority to allow service to all intermediate points and expand from one-way to two-way authority; (b) delete restrictions against pickup and delivery and against transportation of specified commodities, (c) broaden authority at off-route points within 10 miles of Barnes, KS to Washington and Marshall Counties, KS; and from North Kansas City, MO to Jackson, Clay, Platte Counties, MO; (d) broaden (2) and (4) from general commodities with specific exceptions to "general commodities (except classes A and B explosives)"; (e) expand (3) and (2I) from livestock and feed to "farm products and food and related products"; (f) expand (3) off-route points within 10 miles of Barnes to Washington and Marshall Counties, KS; (g) expand off-route points in (4) (A) at Kansas City, Blue Rapids and Bigelow, KS to Wyandotte, Johnson and Marshall Counties, KS; (h) expand off-route points in (4) (c) from Olsburg and Randolph, KS to Pottawattamie and Riley Counties, KS; (i) expand (5) from hatchery supplies and equipment, liquid, petroleum products in containers, and empty liquid petroleum products containers to "agricultural supplies and equipment and petroleum, natural gas and their products"; (j) broaden off-route points (5) from Kansas City and Waterville, KS to Wyandotte and Johnson Counties, KS; (k) broaden (6) from livestock to "farm products"; (l) broaden off-route points in (6) at Kansas City, KS and points within 15 miles of Cleburne, KS, to Wyandotte, Johnson, Riley, Wabaunsee and Pottawattamie Counties, KS; (m) expand (7) from livestock and agricultural commodities to "farm products and agricultural commodities"; (n) expand in (7), (8), (9), and (10) off-route points in Kansas City, KS and points within 15 miles of Marysville, KS to Wyandotte, Johnson, Marshall and Washington Counties, KS; (o) expand (8) from livestock, feed, and farm machinery and parts to "farm products, food and related products, and machinery"; (p) expand (9) from livestock, agricultural commodities and empty containers for petroleum products to "farm products, agricultural commodities, and metal products"; (q) expand (10) from livestock, feed, farm machinery and parts, and petroleum products, in containers to "farm products, food and related products, machinery and petroleum, natural gas and their products"; (r) expand (11) from agricultural implements and parts and

twine to "machinery and agricultural supplies"; (s) expand paragraphs (11) and (12) from Waterville, KS to Marshall County, KS; (t) expand (12) from seeds to "food and related products"; (u) expand (13) from insulating materials and fertilizer to "building materials and chemicals and related products"; (v) broaden (13) from Blue rapids, KS, to Marshall County, KS; (w) expand (14) from sugar to "food and related products"; (x) expand (14) from Belleville, Concordia, Greenleaf, and Barnes, KS to Republic, Cloud, and Washington Counties, KS; (y) expand (15) from feed to "food and related products"; (z) expand authority at Blue Rapids, KS and points within 30 miles of Blue Rapids, KS to Nemaha, Marshall, Potawattamie, Clay, Riley and Washington Counties, KS, Pawnee, Gage, and Jefferson Counties, NE; (aa) expand (16) from road machinery, tractors, and culverts to"machinery, metal proucts, and building materials"; (bb) expand (16) from Morrowville, Washington, Greenleaf and Barnes, KS to Washington County, KS; (cc) expand (17) from livestock, agricultural commodities and agricultural implements and parts to "farm products, agricultural commodities and machinery"; (dd) expand Barnes, KS and points within 15 miles of Barnes, KS in (17) to Marshall, Pottawattamie, Clay, Washington and Riley Counties, KS and from St. Joseph, MO to Buchanan County, MO; (ee) expand (18) from livestock, feed, agricultural implements, and parts, binder twine, windmills and parts, building and fencing materials, paint, bailing wire, coal, and furniture to "farm products, food related products, machinery, agricultural supplies and equipment, building materials, metal products, chemicals and relate products, coal and their products, and furniture and fixtures"; (ff) expand (19) from livestock, feed, and building materials to "farm products, food and related products and building materials"; (gg) expand St. Joseph, MO in (19) to Buchanan County, MO; (hh) expand (20) from livestock, feed, seeds, binder twine, and agricultural implements and implement parts to "farm products, food and related products, agricultural supplies, and machinery"; (ii) expand (20) from Irving, KS and points within 15 miles of Irving to Riley, Pottawattamie, Geary and Wabaunsee Counties, KS and from St. Joseph, MO to Buchanan County, MO; (jj) expand (21) (a) from Blue Rapids, KS to marshall County, KS, and points within 30 miles of Blue Rapids to Nemaha, Marshall, Pottawattamie, Clay, Riley, and Washington Counties, KS, Pawnee, Gage and Jefferson Counties, NE, and from St. Joseph, MO to Buchanan County, MO; (kk) expand in (21) (b), (22), and (23) from points within 15 miles of Marysville to marshall and Washinton Counties, KS, (ll) expand paragraph (23) from livestock to "farm products".

MC 133846 (Sub-9)X, filed August 19, 1981. Applicant: FLITE LINE SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Representative: Russell S. Bernhard, 1625 K. St., N.W., Washington DC 20006. Applicant seeks to remove restrictions in its Sub-No. 8 certificate to (1) eliminate all exceptions to its general commodities authority other than Classes A and B explosives; (2) replace "passenger terminals at the Philadelphia International Airport" with "Philadelphia, PA"; and (3) remove ex-air and weight restrictions.

MC 136310 (Sub-6)X, filed August 18, 1981. Applicant: R. WALKER TRUCKING, INC., Route 2, Box 290, Yakima, WA 98902. Representative: Philip G. Skofstad, Logus Block, 529 S.E. Grand Avenue, Portland, OR 97214. Applicant seeks to remove restrictions in its Sub-Nos. 1 and 7 permits to (1) broaden the commodity description in (a) Sub 1 to "chemicals and related products" from polyethelyn resin, and "rubber and plastic products" from polyethelyn bags and sheets, (b) Sub-No. 7 to "rubber and plastic products" from plastic expanded foam, cellular, nested trays and cartons; (2) broaden the territorial description in Sub-Nos. 1 and 7 to between points in the U.S. under continuing contract(s) with named shippers; and (3) remove the in bulk restriction in Sub-No. 1.

MC 138157 (Sub-282)X, filed August 17, 1981. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). Applicant seeks to remove restrictions in its Sub-No. 108F certificate to (1) change the commodity description from plastic granules, expanded plastics, plastic bags, plastic film, agricultural insecticides, and disinfectants to "rubber and plastic products, and chemicals and related products"; (2) eliminate the restriction against commodities in bulk; (3) delete facilities limitation; (4) authorize radial authority in place of one-way authority; and (5) replace city-wide and county-wide authority as follows: Pittsburg, Fresno, and Torrance with Contra Costa, Fresno, and Los Angeles Counties, CA.

MC 143892 (Sub-1)X, filed August 30, 1981. Applicant: SHIVELY'S SERVICES, INC., R.D. No. 8, Box 392, Allentown, PA 18104. Representative: Robert J. Brooks, Suite 1115, 1828 L Street, NW, Washington, DC 20036. Applicant seeks to remove restrictions in authority acquired in MC-FC-77076 to (1) remove all exceptions to general commodities authority except classes A and B explosives, and (2) change city to county-wide authority from Allentown, PA to Berks, Bucks, Lehigh, and Northhampton Counties, PA.

MC 148180 (Sub-3)X, filed August 24, 1981. Applicant: SATELLITE TRANSPORT, INC., P.O. Box 207, Flora, IN 46929. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commoditiy description to "food and related products" from feed and feed ingredients, animal health aids and sanitation products; and, (2) remove the except liquid bulk commodities in tank vehicles restriction.

[FR Doc. 81-25954 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

Preliminary Certification of Railroad Cost Accounting System Compliance With the Uniform System of Accounts (USOA)

AGENCY: Interstate Commerce Commission.

ACTION: Order.

SUMMARY: By Notice served October 30, 1980, the Commission announced its intent to implement Section 302 of the Staggers Rail Act of 1980 (recodified as Section 11164 of the Interstate Commerce Act) by requiring all Class I railroads to file a request for preliminary certification of their cost accounting systems.

Upon filing their request for certification each railroad was requested to certify that (1) the conversion system used to convert internal accounting data to Commission reports produced data in accordance with the USOA; (2) converted data was subjected to regular edits for compliance and reasonableness; and (3) all accounting exceptions taken by Commission auditor during their most recent compliance audit have been corrected or formally resolved with the Regional Auditor.

All Class I railroads filed requests for preliminary certification by the March 30, 1981 due date. This Order grants preliminary certification.

DATES: Carriers and interested parties have until October 19, 1981, to comment on this Order.

ADDRESS: Director, Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Phone No. (202) 275–7448.

SUPPLEMENTARY INFORMATION: All Class I railroads regulated by the Commission filed requests for preliminary certification of their compliance with the USOA. Commission auditors have reviewed the representations of each railroad in their certification request. As a result, the Commission is granting preliminary certification to those railroads listed in Appendix A of this Order.

We would like to emphasize that this preliminary certification is only a formal acknowledgement of railroad compliance with the USOA. It is not a statement of Commission concurrence with cost accounting systems and methodologies employed by these railroads. We recognize there are inherent problems and deficiencies in certain railroad cost accounting systems. We will address and help resolve these problems after issuing formal cost accounting standards and providing ample time for their implementation.

This Order does not significantly affect the quality of the human environment, the conservation of energy resources or small entities.

This Order is issued under the authority of 49 U.S.C. 10321.

Decided: August 18, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

Certification Granted

1. Missouri Pacific Railroad
2. Missouri-Kansas-Texas
3. Union Pacific Railroad
4. Pittsburgh & Lake Erie
5. Conrail
6. Chicago & Northwestern
7. Duluth, Mesabi & Iron Range
8. Grand Trunk Western
9. Soo Line
10. Detroit, Toledo & Ironton
11. Norfolk & Western
12. Delaware & Hudson
13. Boston & Maine
14. Burlington Northern
15. Elgin, Joliet & Eastern
16. Florida East Coast
17. Long Island RR.
18. Southern Ry.
19. The Alabama Great Southern
20. Central of Georgia
21. The Cincinnati, New Orleans & Texas Pacific
22. Chicago, Milwaukee, St. Paul & Pacific
23. Bessemer & Lake Erie
24. Denver & Rio Grande Western
25. Ft. Worth & Denver
26. Colorado & Southern
27. Western Pacific
28. Seaboard Coast Line
29. Louisville & Nashville
30. Clinchfield Railroad
31. Atchison, Topeka & Santa Fe
32. Kansas City Southern
33. Southern Pacific
34. St. Louis Southwestern
35. Illinois Central Gulf
36. Baltimore & Ohio
37. Chesapeake & Ohio
38. Western Maryland

[FR Doc. 81-25890 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 346 (Sub-No. 7)]

Railroad Exemption—Export Coal

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Norfork and Western Railway Company has petitioned the Commission to exempt export coal traffic handled by rail and moving through Atlantic and Gulf ports from regulation. It contend that this traffic meets the criteria for exemption found in 49 U.S.C. 10505. The petition is supported by the Chessie System Railroads and the Family Lines Rail System. The Commission is seeking comment on the merits of exempting all export coal traffic through all U.S. ports from some or all of our regulations.

DATES: Statements of intent to participate are due within 10 days of the date this notice is published in the **Federal Register.** As soon as practicable thereafter, a service list and due dates for comments and replies will be served on all parties who filed an intention to participate.

ADDRESS: Statements of intent to participate should be sent to: Interstate Commerce Commission, Room 5340, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Norfolk and Western Railway Company (N&W) has petitioned the Commission to exempt from regulation all export coal traffic moving by rail via Atlantic and Gulf ports. The N&W request is limited to the scope of its interest, i.e., Atlantic and Gulf ports. We believe it would be useful to study this issue on a nationwide basis, including West Coast ports. We thus request evidence on the characteristics of export coal movements through all U.S. ports.

The Commission's exemption authority for rail services is found in 49 U.S.C. 10505. We are seeking comments on whether export coal traffic meets the statutory standards for exemption. Section 10505, as amended by the Staggers Rail Act, states that the Commission shall exempt a person, transaction or service from regulation if: (1) regulation is not necessary to carry out the national transportation policy of 49 U.S.C. 10101a; and (2) either the transaction or service is of limited scope, or regulation is not needed to protect shippers from the abuse of market power.

N&W argues that export coal traffic meets the statutory criteria and, therefore, should be exempted from regulation. The Chessie System and the Family Lines Rail System concur and support the petition. The opposite view is taken by the Coal Exporters Association of the United States, Inc. (CEA). CEA is supported by Alla-Ohio Valley Coals, Inc., the National Coal Association, and the Water Transport Association. CEA and Alla-Ohio contend that export coal traffic cannot meet the criteria for exemption under section 10505 and have sought immediate dismissal of the N&W petition. We do not believe that the current record provides a basis for granting either the exemption of the request for dismissal, and are serving this notice to obtain further comment. The views of all parties are summarized and discussed below. Specific questions relating to the issues are also presented to focus the comments of the participants in this proceeding.

Competitive Criteria

Both sides concentrate on the competitive issues surrounding the petition. N&W contends that rail transportation of export coal is affected by competitive pressures from several sources and that these are sufficient to insure reasonable rates and protect shippers from the abuse of market power. CEA questions the effectiveness of these competitive pressures by emphasizing conditions in the market for export coal that, they assert, make most domestic coal suppliers captive to a single rail carrier.

The source of competitive pressure most extensively discussed by N&W is the world market for export coal. N&W presents evidence attempting to demonstrate that the United States has been and will continue to be engaged in vigorous competition with other nations for the sale of export coal. N&W argues

that this competition is intensified by the fact that purchasers of export coal are large, sophisticated buyers who obtain their coal from a variety of sources in the world market. The result, it is argued, is that if domestic rail carriers were to charge excessively high rates for transporting this coal, the United States would be placed at a competitive disadvantage vis-a-vis other exporting nations. This would, arguably, not be in the interest of the railroads since the result would be a reduction in U.S. sales of export coal and, consequently, a diminution of rail traffic and revenues. Therefore, N&W argues, because of the competitive pressures in the world market for export coal, railroads would be restrained from charging unreasonable rates for such traffic or engaging in behavior that would otherwise be detrimental to domestic suppliers.

The second source of competitive pressure cited by N&W is competition among domestic rail carriers. It argues that, in addition to U.S. competition in the world market, domestic suppliers of export coal compete intensively among themselves. These suppliers are often served by different rail carriers delivering to different ports. As a consequence, the traffic and revenues of each rail carrier would depend on how successfully the supplier it serves can compete with other domestic suppliers of export coal. Since ability to compete depends, in part, on the costs of transporting the coal, it would, N&W avers, not be in the interest of a rail carrier wishing to carry such traffic to charge excessively high rates. The thrust of this argument is that, even in the absence of worldwide competition for coal geographic competition in the domestic market for export coal would suffice to keep rail rates for this traffic at reasonable levels and otherwise protect shippers from the abuse of market power.

Two other potential sources of competition are also cited by N&W. These are intra- and intermodal competition and product competition. As to intra- and intermodal competition, N&W argues that "there exists very substantial competition among carriers serving the same source." Barge, and to a lesser extent, truck may be used in some instances in lieu of rail to transport export coal. In a limited number of cases, supply sources are served by more than one rail carrier. Combinations of modes such as rail-barge, rail-barge-rail, truck-rail and truck-barge may also be used depending on the region. It is argued the existence of such transportation alternatives places direct competitive pressure on rail carriers carrying export coal.

Finally, the N&W petition briefly discusses product competition as a factor restraining rail behavior detrimental to coal exporters. To the extent that foreign users may substitute for coal other sources of energy (oil, atomic energy, etc.), the ability of domestic rail carriers to raise rates and, therefore, the delivered price of export coal, is somewhat constrained.

The coal exporters strongly question the effectiveness of the major sources of competitive pressure cited in the N&W petition. They argue that the various sources of export coal are not readily substitutable for one another. The quality or chemical content of coal is said to vary considerably among the domestic and international coal regions. The foreign public utilities purchasing export coal are technologically constrained to use only a specific type or mix of coal. The alleged implication of this is that, at least in the short term, foreign users have a very limited number of feasible sources from which they can draw their coal. Arguably, domestic coal exporters would, in the short term, face little, if any, competitive pressures in the world or national coal markets. Since foreign purchasers would be captive to a specific source of export coal, domestic rail carriers would have little fear of losing traffic and revenues as consequence of raising rates or engaging in other activity that would be detrimental to the coal suppliers they served. In short, it is argued that the restraining effects on rail behavior of domestic and foreign sources competition at the domestic level would, in the event of exemption, be either nonexistent or far less effective than the N&W petition implies.

CEA also contends that competition from alternative sources is undermined by the extensive use of long term supply contracts for export coal. CEA argues that once quantity and price are settled in these contracts the exporter is bound by the terms and must absorb any increase in production costs, including increased transportation costs. CEA continues that the railroads, in the absence of rate controls, would be able to raise rates just short of the point where production would cease, taking monopoly profits in the process.

The effectiveness of intramodal and intermodal competition is also questioned by CEA and its supporters. For example, they argue that intramodal competition is insignificant since only a very small percentage of the domestic coal fields or mines is served by more than one rail carrier. The alleged effectiveness of intermodal competition is questioned as well. Barges, the most important of the other modes transporting coal, do not have direct access to coal fields or mines. Since, in many instances, coal must be transported by rail to the water, the possibility of using barge for a portion of the movement does not appreciably reduce the market power of the originating rail carrier. While truck can be used to transport or originate coal that may be later transloaded onto barge or rail, the costs of transporting coal by truck greatly exceed those of rail, especially for long hauls. Thus, the use of truck as an alternative to rail may be feasible only in a limited number of cases. In sum, it is the view of these parties that, although intramodal and intermodal competition are not affected by technological restrictions and long term supply contracts which constrain foreign purchasers to specific sources of supply, such forms of competition are not sufficiently prevalent to keep rail rates at reasonable levels or otherwise protect shippers from the abuse of market power.

In our view, the issues concerning competition must be resolved before we can determine whether export coal traffic can qualify for an exemption. Further development of these issues is necessary. For example, would the constraints imposed by technological restrictions and long term supply eliminate either the effectiveness of U.S. competition in the world market or geographic competition at the domestic level in restraining abuse of market power by rail carriers? While shippers may be captive in the short term as a consequence of these constraints, is it true in the long term? Would it be a sufficient constraint that a rail carrier charging excessive rates or otherwise engaging in activity detrimental to a captive shipper is still threatened by a future loss in traffic and revenues? Arguably, the shipper has the option of choosing from other supply sources after the contract has expired or the technological restrictions are no longer binding. As provided in section 208 of the Staggers Rail Act, shippers can now legally negotiate transportation contracts with rail carriers. Since such contracts may be made simultaneously with long term supply contracts and at a time when shippers may choose from several coal supply sources and transportation alternatives, is it true that the abuse of market power associated with captivity can be averted?

In sum, the effectiveness of long term competition and transportation contracts in restraining rail behavior must be carefully considered before we

can determine whether export coal meets the criteria for exemption. Because we recognize the potential magnitude of this problem, we are particularly interested in receiving comments on this issue.

The Limited Scope Criterion

N&W argues that, in addition to being subject to intense competition, export coal traffic also qualifies for exemption on the basis of the limited scope criterion. To support this view, N&W states that such traffic represents only three percent of the railroads' total originated carloadings nationwide and less than four percent of Eastern and Southern district carloadings. Further, it reports that this amounts to one-fourth of the world coal trade.

In contrast, CEA argues that the exemption of export coal is not of limited scope because it encompasses all movements of export coal via Atlantic and Gulf ports, all rail carriers transporting coal to them, and all statutory sections applicable to rail transport. It compares export coal traffic to exemptions granted for fresh fruits and vegetables and TOFC/COFC [2] arguing that in these instances the exemption was granted because the railroads' share of the market for the commodities being transported was small and the railroads lacked significant market power. CEA indicates that the same circumstances do not exist with respect to export coal. It states that the railroads' market share for export coal moving via the Atlantic and Gulf ports is well above 90 percent. Additionally, it reports that export coal traffic represents 23 percent of the total tonnage handled by N&W in 1980, and it constitutes, in terms of carloadings, the eight or ninth largest commodity in the AAR list of commodities transported by U.S. railroads. This, CEA argues, implies that the export coal traffic moved by rail cannot be construed to be of limited scope.

The evidence submitted by both parties reflects considerable ambiguity with respect to the meaning of the term "limited scope." The term has been applied to a variety of measures associated with rail transportation of export coal (modal share, percent of rail carloadings, percent of originated tons, etc.). Section 10505 provides insufficient guidance as to the intended meaning of the term. We seek comment on what "limited scope" should mean in the context of this proceeding, and on the parties' views as to whether the criterion is met.

Other Issues

Several other matters pertaining to the market for export coal received extensive discussion by both parties. One is N&W's argument concerning the negative effect of regulation on the willingness of shippers to negotiate acceptable transportation contracts with rail carriers. The other is the reasonableness of rates for export coal. Various aspects of this issue were raised by both parties.

N&W contends that regulation is harmful to the ability of railroads to enter into long-term transportation contracts with shippers. It states that these shippers have no incentive to negotiate acceptable rate contracts since the "regulatory backstop" affords them a procedure for filing complaints and obtaining perhaps more advantageous rates from the Commission. In other words, shippers are unwilling to negotiate contracts containing rate agreements unless such contracts also include a clause requiring the lowering of the agreed-upon rate in the event of any decision by the Commission requiring the lowering of a similar rate. This is unacceptable to the railroads since the predictability of rates and, therefore, revenues is crucial for determining the profitability of investment in rail facilities. As a consequence, in N&W's view, the failure to negotiate acceptable rate contracts has precluded the growth of an environment conducive to adequate rail investment. The amount of investment required for the efficient handling of export coal is substantial, and railroads are reluctant to undertake such investment if they are uncertain of the revenues it will generate. For these reasons, N&W asserts that continued regulation of export coal is inconsistent with the goals of the national transportation policy (49 U.S.C. 10101a) to create an environment conducive to adequate investment and efficient provision of rail services.

CEA asserts that there is little evidence to support this argument, and states that, in fact, a large number of such contracts have been negotiated since passage of the Staggers Act (which legalized contracts between rail carriers and shippers and established rules governing their enforcement). This would imply that the historical failure to negotiate long-term contracts for export coal was due to the uncertainties surrounding their legality and enforceability rather than the reasons cited by N&W. We are especially interested in receiving comment on this issue, including non-confidential information about the number and circumstances of post-Staggers Act contracts covering transportation of export coal.

Numerous pre-Staggers Act rail rates for export coal have recently been challenged before the Commission and the courts. Challenges to some of these rates were filed by CEA and Alla-Ohio in March, 1981 under Section 229 of the Staggers Act. (Section 229 established a 180 day period, beginning with the effective date of the Act, for rates in effect prior to that date to be challenged as unreasonable.) CEA cites the challenged rates as evidence that the railroads have abused their market power over this traffic. The revenue/variable cost ratios for all of these rates are argued to be in excess of 200 percent, and several allegedly exceed 300 percent. As additional evidence that railroads have and do execrcise market power over export coal traffic, CEA indicates that they have, in every instance, taken full general rate increases for this traffic.

N&W argues that the rate challenges for export coal were filed simultaneously with its petition for exemption and that, to its knowledge, there have been no other instances in which such rates have been challenged. It interprets this as evidence that shippers have, in the past, considered these rates reasonable. As additional indication of the resasonableness of export coal rates, N&W points to the fact that these rates have in recent years increased at a much slower pace than the delivered price of coal. For example, N&W's export coal rates increased approximately 26% between 1969 and 1979, while the mine-mouth price of coal increased approximately 622% over the same period.

We solicit all parties views on the implications of these arguments. Would an exemption improve or worsen matters?

Additional Questions

The evidence submitted by the parties does not provide us with a sufficient basis for determining whether export coal traffic nationwide or through Altantic and Gulf ports qualifies for exemption. This is expecially true with respect to the competitive issues. We are, therefore, seeking further comment on the arguments summarized and discussed in this notice as well as comments on relevant issues that were not addressed by the parties. Specifically, the petition does not satisfactorily address the following, and we ask commenting parties to do so:

[2] See Ex Parte No. 346 (Sub-No. 1), Rail General Exemption Authority—Fresh Fruits and Vegetables, 361 I.C.C. 211, (1979), 361 I.C.C. 374 (1979); and Ex Parte No. 230 (Sub-No. 5).

1. In light of the constraints imposed by quality restrictions on coal usage and by long-term supply contracts, how effective are geographic competition at the domestic level and U.S. competition in the world market in preventing abuse of market power by rail carriers?

2. What transportation alternatives are available to domestic suppliers for originating export coal traffic? Is truck an economically feasible alternative for originating such traffic and transloading it onto other modes (rail or barge)? How many carrier or mode combinations are usually available for transporting export coal from a given supply source to a port?

3. How do revenue/variable cost ratios for export coal traffic compare with those for domestic coal traffic?

4. Do high revenue/variable cost ratios for export coal traffic necessarily indicate that rates are unresasonable?

5. N&W argues that regulation (in the sense of guaranteed recourse to the Commission) has prevented the negotiation of long-term supply contracts because shippers have insisted on clauses that require the lowering of the agreed-upon rate in the event of Commission action to lower an allegedly similar rate. Would an exemption of this traffic be likely to result in more successful negotiations between shippers and carriers? Would this be beneficial to the public? Are contracts that include clauses requiring rates to be lowered (or raised) in defined circumstances less desirable to rail carriers than no contracts at all?

6. In the future, can shippers negotiate long-term transportation contracts simultaneously with long-term supply contracts?

7. Exemption of export coal would include the elimination of antitrust immunity for collective ratemaking. How would this affect competition among domestic rail carriers for the trnaportion of export coal?

8. Is Commission regulation necessary in view of the protection afforded by the antitrust laws to compel competition? Would application of the antitrust laws produce reasonable levels of rates and service?

9. The Water Transport Association has expressed their concern that exempting export coal from regulation will allow the railroads to undermine rail-water competition through practices that are unlawful under Section 707 of the Staggers Act. Discuss to what extent, if any, the exemption of export coal would permit practices that are unlawful under Section 707. Do the antitrust laws provide sufficient protection from the practices identified in Section 707? Would they satisfy the Commission's obligations here?

10. With respect to the goals of the national rail transportation policy (49 U.S.C. 10101a), in what ways is continued regulation of export coal traffic beneficial or detrimental to the railroad industry, the export coal industry, and the nation?

Conclusion

Upon review of the comments, the relief sought may be granted or denied or the Commission, in its discretion, may institute a general rulemaking proceeding or take such other action as may be appropriate.

The N&W petition and the replies are available for public inspection in the Office of the Secretary of the Commission, I.C.C., Washington, D.C. 20423.

We also request comment on whether this proposal affects significantly the quality of the human environment or conservation of energy resources. While we do not believe an exemption here would have a significant effect on a substantial number of small entities, copy of this proposal is being forwarded to the Chief Counsel for Advocacy, Small Business Administration.

(49 U.S.C. 10321, 10505 and 5 U.S.C. 553).

Decided: August 18, 1981.

By the Commission, Chairman Taylor, Commissioners Gresham, Clapp, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-25892 Filed 9-3-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Carpenter Technology Corp., et al.

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, Employment and Training Administration, 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 September 14, 1981.

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 September 14, 1981.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 31st day of August 1981.

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
Carpenter Technology Corp. (company)	Reading, Pa	8/26/81	8/14/81	TA-W-12,927	Stainless and tool steel, corp. offices.
Do	Hapeville, GA	8/26/81	8/14/81	TA-W-12,928	Warehousing steel and steel products.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Do	Mansfield, Mass	8/26/81	8/14/81	TA-W-12,929	Warehousing steel and steel products.
Do	Charlotte, N.C	8/26/81	8/14/81	TA-W-12,930	Warehousing steel and steel products.
Do	Melrose Park, IL	8/26/81	8/14/81	TA-W-12,931	Warehousing steel and steel products.
Do	Cincinnati, Ohio	8/26/81	8/14/81	TA-W-12,932	Warehousing steel and steel products.
Do	Cleveland, Ohio	8/26/81	8/14/81	TA-W-12,933	Warehousing steel and steel products.
Do	Dallas, Tex	8/26/81	8/14/81	TA-W-12,934	Warehousing steel and steel products.
Do	Troy, Mich	8/26/81	8/14/81	TA-W-12,935	Warehousing steel and steel products.
Do	Hartford, Conn	8/26/81	8/14/81	TA-W-12,936	Warehousing steel and steel products.
Do	Houston, Tex	8/26/81	8/14/81	TA-W-12,937	Warehousing steel and steel products.
Do	Indianapolis, Ind	8/26/81	8/14/81	TA-W-12,938	Warehousing steel and steel products.
Do	Los Angeles, Calif	8/26/81	8/14/81	TA-W-12,939	Warehousing steel and steel products.
Do	Memphis, Tenn	8/26/81	8/14/81	TA-W-12,940	Warehousing steel and steel products.
Do	Milwaukee, Wis	8/26/81	8/14/81	TA-W-12,941	Warehousing steel and steel products.
Do	Minneapolis, MN	8/26/81	8/14/81	TA-W-12,942	Warehousing steel and steel products.
Do	W. Caldwell, N.J	8/26/81	8/14/81	TA-W-12,943	Warehousing steel and steel products.
Do	Fort Washington, Pa	8/26/81	8/14/81	TA-W-12,944	Warehousing steel and steel products.
Do	Rochester, N.Y	8/26/81	8/14/81	TA-W-12,945	Warehousing steel and steel products.
Do	St. Louis, Mo	8/26/81	8/14/81	TA-W-12,946	Warehousing steel and steel products.
Do	Belmont, Calif	8/26/81	8/14/81	TA-W-12,947	Warehousing steel and steel products.
Do	South Bend, Ind	8/26/81	8/14/81	TA-W-12,948	Warehousing steel and steel products.
General Electric Company (UE)	Ontario, Calif	8/24/81	8/18/81	TA-W-12,949	Household flat irons.
Raico Sewing Industries, Inc. (United Brick & Clay Wrks of Amer).	Olive Hill, Ky	8/24/81	8/4/81	TA-W-12,950	Contractor of insulated outerwear and insulated underwear.
Smart Modes of Calif., Inc. (ILGWU)	Los Angeles, Calif	8/25/81	8/19/81	TA-W-12,951	Ladies' and misses' coats and rainwear.
Victoreen, Inc. (IAMAW)	Cleveland, Ohio	8/24/81	8/19/81	TA-W-12,952	Nuclear radiation measuring instrument electronic components, environmental systems.
Vulcan Corp (workers)	Amesbury, Mass	8/21/81	8/18/81	TA-W-12,953	Soles and heels.

[FR Doc. 81-25970 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications; Keymark Corp.

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. 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 areas.

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. Comments received after the two-week period may not be considered. Send comments to: David O. Williams, Administrator, U.S. Employment Service, Room 8000, Patrick Henry Building, Employment & Training Administration, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 1st day of September 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending September 5, 1981

Name of Applicant and Location of Enterprise and Principal Product or Activity

Keymark Corporation, Mohawk, New York—Manufacture of aluminum extrusions—subs. manufacture of aluminum windows & doors

[FR Doc. 81-25917 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,381]

Dayton-Walther Corp., Camden Casting Center, Camden, Tennessee; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 9, 1981 in response to a worker petition received on March 2, 1981 which was filed on behalf of workers at Camden Casting Center, Camden, Tennessee, of Dayton-Walther Corporation.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-12,309). Consequently further investigation in this case would

serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 28th day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25957 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,771]

Inspiration Consolidated Copper Co., Claypool, Arizona; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 24, 1980, in response to a worker petition received on November 14, 1980, which was filed by the United Steelworkers of America on behalf of the workers at Inspiration Consolidated Copper Company, Claypool, Arizona.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 21st day of August 1981.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25961 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,390]

McEwen Manufacturing Co., McEwen, Tenn.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 9, 1981, in response to a worker petition received on March 2, 1981, which was filed on behalf of workers at McEwen Manufacturing Company, McEwen, Tennessee.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,818). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25960 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,103, 11,103A, 11,103B, and 11,196]

Mr. Fine, Inc., Graham, Tex., Jacksonville, Tex., Dallas, Tex., and Athens, Tex.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

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 determined in this case that all of the requirements have been met.

The investigations were initiated on September 29, 1980 and October 6, 1980 in response to petitions which were filed on behalf of workers of the Graham, Texas (TA-W-11,103) and Athens, Texas (TA-W-11,196) facilities of Mr. Fine, Incorporated. The investigation was expanded to include the Jacksonville, Texas (TA-W-11,103A) and Dallas, Texas (TA-W-11,103B) facilities of Mr. Fine, Incorporated. Workers at all facilities produce women's apparel.

U.S. imports of women's, misses' and children's slacks and shorts, blouses and shirts, coats and jackets, and women's and misses' dresses increased absolutely in 1980 compared with 1979.

Mr. Fine, Incorporated began importing women's apparel in August, 1980, subsequently closing their four domestic production facilities, the subject plants, in September 1980. Presently the company relies on imports and domestic contractors for supplies of women's apparel. Reliance on domestic contractors has remained stable, while imported garments have replaced in-house production requirements.

Customers of the subject firm were surveyed for their purchases of women's sportswear—slacks and jeans, blouses, dresses and blazers in 1978, 1979, and 1980 to determine the impact of imports on sales and employment declines prior to subject firm procurement of imported garment supplies. Survey respondents accounting for a significant portion of subject firm sales and sales declines reported they did not purchase imports or their reliance on imports did not increase significantly during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' pants, blouses, skirts and dresses produced at Mr. Fine, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Graham (TA-W-11,103), Jacksonville (TA-W-11,103A), Dallas (TA-W-11,103B) and Athens (TA-W-11,196), Texas facilities of Mr. Fine, Incorporated who became totally or partically separated from employment on or after September 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1981.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 81-25959 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,197]

Municipal Castings, Inc., Madison, Minn.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 6, 1980 in response to a worker petition received on September 30, 1980 which was filed on behalf of the workers at Municipal Castings, Inc., Madison, Minnesota.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25966 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,662]

National Gypsum Co., Decorative Products Division, Hatfield, Mass.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 30, 1981, in response to a worker petition received on April 27, 1981, which was filed on behalf of the workers at National Gypsum Company, Decorative Products Div., Hatfield, Massachusetts.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been

issued (TA–W–12,600). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25960 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,233]

Portera Garments, Inc., Brooklyn, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 9, 1981 in response to a worker petition received on February 2, 1981 which was filed on behalf of the workers at Portera Garments, Incorporated, Brooklyn, New York.

The petioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–11,150). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25962 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9748]

Progressive Machinery Corp., Pontiac, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 4, 1980 in response to a worker petition received on July 27, 1980 which was filed on behalf of the workers at Progressive Machinery Corporation, Pontiac, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Admustment Assistance.

[FR Doc. 81-25965 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,229]

Samoset Processing Co., Woonsocket, R.I.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 determined in this case that all of the requirements have been met.

The investigation was initiated on October 6, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers at Samoset Processing Company, Woonsocket, Rhode Island. The workers produce men's and boys' outercoasts and jackets.

U.S. imports of men's and boys, nontailored outer jackets increased absolutely in 1980 compared to 1979.

Company imports of men's and boys' outercoats and jackets increased absolutely and as a proportion of company sales from 1979 to 1980 in the first five months of 1981 compared to the same period in 1980.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' outercoats and jackets produced at Samoset Processing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Samoset Processing Comapany, Woonsocket, Rhode Island who became totally or partially separated from employment on or after September 1, 1980 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1981.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 81-25966-9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9524]

S. M. Frank and Co., Inc., Richmond Hills, N.Y.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 28, 1980 which was filed on behalf of workers and former workers producing smoking pipes at S. M. Frank and Company, Incorporated, Richmond Hills, New York.

The Notice of Investigation was published in the **Federal Register.** No public hearing was requested and none was held.

Section 221(a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative. During the course of the investigation, it was established that the petitioner is neither an authorized representative of the workers of S. M. Frank and Company, Incorporated nor a company official. Consequently, the investigation has been terminated.

Signed in Washington, D.C., this 21st day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25964 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,458 and TA-W-10,458A]

Tag-A-Long Handbags and Accessories, Inc., East Haven, Conn., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 determined in this case that all of the requirements have been met.

The investigation was initiated on August 25, 1980 in response to a petition which was filed on behalf of workers at Tag-A-Long Handbags and Accessories, Incorporated, East Haven, Connecticut. The workers produce handbags. The investigation was expanded to include

workers of the New York, New York office of Tag-A-Long Handbags and Accessories, Incorporated.

U.S. imports of handbags increased absolutely during 1980 compared to 1979 and during the first quarter of 1981 compared to the first quarter of 1980. U.S. imports of handbags increased ralative to domestic production during 1979 compared to 1978 and during 1980 compared to 1979.

A survey of customers of Tag-A-Long Handbags and Accessories, Incorporated was conducted by the Department of Labor. Survey results revealed that major customers reduced purchases of handbags from Tag-A-Long and increased purchases of imported handbags during 1980 compared to 1979. Results also revealed that customers who responded to the survey, in the aggregate, increased their reliance on imported handbags during 1980 compared to 1979 and during 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at Tag-A-Long Handbags and Accessories, Incorporated, East Haven, Connecticut contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Tag-A-Long Handbags and Accessories, Incorporated, East Haven, Connecticut and New York, New York who became totally or partialy separated from employment on or after August 31, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1981.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 81-25967 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,418]

Tel-Aviv Fashions, Inc., Hoboken, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 16, 1981 in response to a worker petition received on March 9, 1981 which was filed by the International Ladies Garment Workers Union on behalf of workers at Tel-Aviv Fashions, Incorporated, Hoboken, New Jersey.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-12,280). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 28th day of August 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25958 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11-220]

Tenna Corp., Cleveland, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 6, 1980, in response to a worker petition received on October 1, 1980, which was filed by the Allied Industrial Workers on behalf of the workers at Tenna Corporation, Cleveland, Ohio.

The petioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,007). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of August 1981.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-25963 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-70; Exemption Application No. D-2370]

Exemption from the Prohibitions for Certain Transactions Involving the Tharco Affiliated Companies Profit Sharing Plan Trust Located in San Lorenzo, Calif.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed loan (the Plan Loan) of money by the Tharco Affiliated Companies Profit Sharing Plan Trust (the Plan) to Tharco Containers Colorado, Inc., a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 2, 1981, notice was published in the **Federal Register** (46 FR 29568) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of Section 406 (a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of Section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of Section 4975 (c)(1)(A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No requests for a hearing were received by the Department, but a letter was received from the applicant's representative who stated that the applicant was unable to distribute the notice to interested persons prior to June 17, 1981, which was the deadline for such distribution. The applicant completed the distribution of the notice on July 2, 1981 and requested that the comment period be extended from July 17, 1981 August 2, 1981, so as to provide interested parties with the required 30 day comment period. The applicant stated that the notice informed interested parties that the comment period had been extended to August 2, 1981. The Department agreed to the applicant's modified compliance with the notice provisions of the proposed exemption. No comments other than the applicant's were received by the Department. The notice of pendency was issued and the exemption is being granted sloely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under Section 408(a) of the Act and Section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of Section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with Section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of Section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under Section 406(b)(3) of the Act and Section 4975(c)(1)(F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and Section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of Section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of Section 4975 of the Code, by reason of Section 4975 (c)(1)(A) through (E) of the Code, shall not apply to the Plan Loan provided the terms of the Plan Loan remain at least as favorable as an arms-length transaction would be with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 31st day of August 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-25971 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-69; Exemption Application No. D-2211]

Exemption From the Prohibitions for Certain Transactions Involving Hardy Coal Company Employees' Pension Plan & Trust Located in Sugarcreek, Ohio

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption retroactively permits the contribution to Hardy Coal Company Employees' Pension Plan and Trust (the Plan) on September 11, 1979, of two parcels of real property (the Properties) by Holmes Land Company (Holmes), a wholly-owned subsidiary of GEX Hardy, Inc. (the Employer), the Plan sponsor, in satisfaction of the minimum required contribution to the Plan for the year ending December 31, 1978.

FOR FURTHER IMFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 26, 1981, notice was published in the **Federal Register** (46 FR 33141) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of Section 406(a) , 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of Section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of Section 4975(c)(1)(A) through (E) of the Code, for the above described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under Section 408(a) of the Act and Section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with Section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other

provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in EDISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of Section 406(a), 406 (b)(1) amd (b)(2) of the Act and the sanctions resulting from the application of Section of the Code, by reason of Section 4975 4975(c)(1) (A) through (E) of the Code, shall not apply to the contribution on September 11, 1979 of the Properties by Holmes to the Plan for the year ending December 31, 1978: *Provided*, That: (1) The Employer's federal tax deduction for the contribution of the Properties to the Plan was not greater than the fair market value of the Properties on the date of contribution; and (2) the contribution was valued at its fair market value by the Plan on the date of the contribution.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction that is the subject of the exemption.

Signed at Washington, D.C., this 31st day of August, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81–25072 Filed 9–3–81; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export/ Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before October 5, 1981. Any request for hearing or petition for leave to intervene shall be served by the requester or petitioner upon the applicant, the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20420.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this day August 31, 1981, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Isotope		
Transnuclear, Aug. 14, 1981, Aug. 17, 1981, XSNM01666(03).	3.85% enriched uranium	Additional 139,176.420	Additional 4,945.718.	Additional material to cover 5 reloads for Gosgen-Daniken.	Switzerland.
Transnuclear, Aug. 25, 1981, Aug. 25, 1981, ISNM81020.	93% enriched uranium Plutonium	27.2700.9 gms	12.114	Irradiated fuel elements for reprocessing	U.S. (from W Germany).
Transnuclear, Aug. 24, 1981, Aug. 25, 1981, ISNM81012(01).	1.13% enriched uranium	Aditional 000.000	Additional 108.281	Increase maximum enrichment of U/235. Feed material for domestic UE Contract DUE4104.	U.S. (from France).

[FR Doc. 81–25075 Filed 9–3–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co. Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which adds a new license condition for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment sets conditions related to the operation and surveillance of steam generators from the time this unit returns to power subsequent to the August 1981 steam generator inspection and to remain in effect until the next refueling outage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) that application for amendment dated August 27, 1981, as revised by letter dated August 28, 1981, (2) Amendment No. 60 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenue, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the Nuclear Regulatory Commission, Washington,

D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of August, 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-25976 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment was effective on August 4, 1981.

This amendment modifies the Technical Specifications to permit until October 1, 1981, isolation of a primary relief line by using a deenergized shut power operated relief valve (PORV) rather than an inoperable and shut PORV block valve. This amendment was issued on an expedited basis to allow isolation of a packing leak on the inoperable PORV block valve by opening (backseating) the block valve.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 3, 1981, (2) Amendment No. 42 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of August, 1981.

For the Nuclear Regulatory Commisison.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25977 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-458, 50-459]

Gulf States Utilities Co. and Cajun Electric Power Cooperative, (River Bend Station, Units 1 and 2; Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses; Availability of Applicants' Environmental Report; Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for facility operating licenses from Gulf States Utilities Company (the applicant), on its own behalf and, as to ownership of 30 percent of Unit 1, on behalf of Cajun Electric Power Cooperative, to possess, use, and operate the River Bend Station, Units 1 and 2, two boiling water nuclear reactors (the facilities), located on Gulf States Utilities Company's site in West Feliciana Parish, Louisiana. Each of the reactors is designed to operate at a core power level of 2894 megawatts thermal, with an equivalent net electrical output of approximately 936 megawatts.

The applicant also submitted, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report, which discusses environmental considerations related to the proposed operation of the facilities. The report is being made available at the Office of State Clearinghouse, Department of Urban & Community Affairs, P.O. Box 44455, Capitol Station, Baton Rouge, Louisiana 70804, and the Capital Region/Planning Commission, P.O. Box 3355, Baton Rouge 70821.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permits. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

The Commission will consider the issuance of facility operating licenses to the applicant, which would authorize the applicant to possess, use and operate the River Bend Station, Units 1 and 2, in accordance with the provisions of the licenses and the technical specifications appended thereto, upon: (1) the completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facilities was authorized by Construction Permit Nos. CPPR-145 and CPPR-146, issued by the Commission on March 25, 1977. The latest completion dates specified in the above construction permits is March 31, 1983 for Unit 1, and March 31, 1985 for Unit 2.

Prior to issuance of any operating licenses, the Commission will inspect the facilities to determine whether they have been constructed in accordance with the application, as amended, and the provisions of the construction permits. In addition, the licenses will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and

security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By October 5, 1981, the applicant may file a request for a hearing with respect to issuance of the facility operating licenses and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his or her petition without prior approval of the presiding officer at any time up to fifteen (15) days prior to the first prehearing conference; thereafter, a petition may be amended only with approval of the presiding officer. Any amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. A petitioner who fails to include a valid contention in his or her original petition or in the supplement will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by October 5, 1981. A copy of the petition should also be sent to the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C., 20555, and to Troy B. Conner, Jr., Esq., Conner & Wetterhahn, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, attorney for the applicant. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses and the applicant's environmental report, which are available for public inspection at the Commission's public document room, 1717 H Street, NW., Washington, D.C., and at the local public document rooms at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana 70775, and the Louisiana Street University Library, Government Documents Department, Baton Rouge, Louisiana 70803. As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committe on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of the proposed operating licenses and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Maryland, this 25th day of August 1981.

For the Nuclear Regulatory Commisison.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-25978 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 34-13774-01 EA 81-72]

John C. Haynes Co.; Order To Modify License

I

John C. Haynes Company, 800 Hebron Road, Heath, Ohio 43055 (the "licensee") is the holder of Byproduct Material License 34-13774-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the possession and use of byproduct material under certain conditions specified therein. This license was originally issued on August 18, 1970. The license was due to expire on August 31, 1980; however, a timely renewal has been received.

II

The licensee is currently authorized to use americium-241 to irradiate crystalline materials. However, the licensee's program has been inactive for some time. The licensee is currently in possession of approximately 25 curies of americium, some of it in the form of contamination of the facility (floors, glove boxes, drainage lines, etc.).

On February 6 and 7, 1980 and March 14, 1980, the licensee's activities authorized by License 3-13774-01 and located at 800 Hebron Road, Heath, Ohio, were inspected by representatives

of the NRC Office of Inspection and Enforcement for health and safety purposes. On August 14, 1980, the Commission sent Invoice 1677M to the licensee requesting payment within 30 days of the inspection fee of $390 required by 10 CFR Part 170 of the Commission's regulations. A second notice of payment due, together with a Notice of Violation, was sent to the licensee on September 14, 1980. A final notice of payment due was sent to the licensee on October 14, 1980. To date the fee required by Part 170 has not been paid by the licensee.

On August 28, 1980, following notification by the licensee that he wanted to convert his license to storage only, NRC (Material Licensing Branch) requested that the licensee submit a radiation survey and decontamination report in accordance with applicable guidelines for removable and fixed contamination at his facility.

No adequate radiation survey or decontamination report has been submitted by the licensee.

The property on which Mr. Haynes has conducted his licensed activities is subject to a mortgage held by the Central Trust Company of Newark, Ohio. By letter dated July 14, 1981, the Commission was informed by counsel for the Central Trust Company that an action in foreclosure had been instituted naming all parties in interest including Mr. Haynes, and that a motion for the appointment of the receiver had been filed.

By letter dated August 18, 1981, the Commission was informed by counsel for the Central Trust Company that the Licking County Common Pleas Court appointed a receiver over the property on which Mr. Haynes had conducted his licensed activities. That letter stated that the receiver intended to take physical possession of the property and bar the licensee access to it.

On the basis of the foregoing, I have determined that I no longer have adequate assurance that the licensee is financially capable of conducting its activities in accordance with Commission requirements to protect the health and safety of the public. Therefore, the public health, safety and interest require that the licensee's facility be decontaminated and decommissioned at this time.

III

Pursuant to sections 81, 161(b), 161(o), and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 20, and 30, it is hereby ordered effective immediately that:

A. License No. 34–13774–01 is amended to authorize only storage of americium-241 oxide and decontamination of the licensed facilities.

B. Within 20 days of the date of this Order the licensee shall:

(1) Submit to the Commission for review a radiation survey of the facility.

(2) Submit to the Commission a statement of the quantity and location of all licensed material in the facility.

(3) Submit to the Commission for review and approval a plan based on the above survey for immediate decontamination of the licensed facility in accordance with the Decontamination Guide previously provided to the licensee by letter dated August 28, 1980. This plan shall identify the individual(s) performing the work and his (their) qualifications for performing such work.

(4) Submit to the Commission for review and approval a plan for immediate packaging for shipment all licensed material at the site in accordance with applicable NRC and DOT regulations.

No decontamination or packaging activities shall be commenced until the Commission has approved the licensee's decontamination and packaging plan.

IV

The licensee or any other person who has an interest affected by this Order may request a hearing within 25 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, Nuclear Regulatory Commission, Washington, D.C. 20555. Copies shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address. If a person other than the licensee requests a hearing that person shall describe specifically, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which that interest is affected by this Order. A request for hearing shall not stay the immediate effectiveness of Section III of this Order.

V

If a hearing is requested by the licensee or other person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether the licensee should be required to take the actions proposed in Section III of this Order.

Dated at Bethesda, Maryland, this 28th day of August 1981.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 81-25879 Filed 9-3-81, 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0808]

Issuance and Availability of "Mark II Containment Program Evaluation and Acceptance Criteria"

The Nuclear Regulatory Commission (NRC) staff has prepared a report entitled, "Mark II Containment Program Evaluation and Acceptance Criteria," (NUREG–0808) dated August, 1981. This report provides the staff's resolution of the NRC's Task A–8, "Mark II Containment Pool Dynamic Loads." This issue was identified as an "Unresolved Safety Issue" in the 1978 Annual Report, pursuant to Section 210 of the Energy Reorganization Act of 1974.

This NUREG report provides the staff's evaluation of the Mark II Owners' Long Term Program. It identifies and provides the bases for generic LOCA-related pool dynamic loads that the staff finds acceptable for the evaluation of plants with Mark II containment designs.

The staff will assure that all applicants with Mark II containment designs document the degree to which their plant-unique evaluations utilized the loads identified in this report. Mark II LOCA-related pool dynamic loads acceptable to the staff are identified in Appendices A and C of NUREG–0808. Deviations from these loads shall be identified and justified in the plant-unique Design Assessment report during the FSAR review of each Mark II plant. Those Mark II Owners possessing an Operating License based on a review against the NUREG–0487, "Lead Plant Pool Dynamic Loads," shall perform an assessment of their containment design to the loads identified in NUREG–0808.

Copies of the report will be available after September 1981. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C.; and the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, Nuclear Regulatory Commisison, Washington, D.C. 20555, telephone (301) 492–7536.

Dated at Bethesda, Md., this 31st day of August 1981.

For the Nuclear Regulatory Commission.

Frank Schroeder,

Acting Director, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 81-25980 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the Licensee), which revised the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of issuance.

The amendment revises Section 6.0 Administrative controls of Appendix A and organization figures of Appendix B to reflect recent organization and management title changes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 15, 1981, (2) Amendment No. 60 to License No. DPR-59, and (3) the Commission's letter to the licensee dated August 31, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A single copy of items (2), and (3), may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of August 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-25981 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 18, "Design and Fabrication Code Case Acceptability—ASME Section III Division 1," and Regulatory Guide 1.85, Revision 18, "Materials Code Case Acceptability—ASME Section III Division 1," list those code cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publication Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 31st day of August 1981.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 81-25982 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commisison (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-24, and Amendment No. 59 to Facility Operating License No. DPR-27 issued to Wisconsin Electric Power Company (the licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

The amendments update reactor coolant system temperature and pressure operating curves for Unit 1 and make minor related administrative changes to the Unit 2 Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 31, 1981, (2) Amendment Nos. 53 and 59 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at

the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241,. A copy of items (2) and (3) may be obtained upon request addressed to the Nuclear Regulatory Commisison, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland., this 28th day of August 1981.

For the Nuclear Regulatory Commission.

Christian C. Nelson,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-25983 Filed 9-3-81; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A81-4; Order No. 397]

Seapines Station, Virginia Beach, Va. 23451 (Mrs. Forrest P. Anderson, Petitioner); Order of Filing of Appeal

August 31, 1981.

On August 17, 1981, the Commission received a letter from Mrs. Forrest P. Anderson (hereinafter "Petitioner"), concerning alleged United States Postal Service plans to close the Seapines station in Virginia Beach. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be construed as a petition for review pursuant to § 404(b) of the Act (39 U.S.C. 404(b)), so as to preserve Petitioner's right to appeal which is subject to a 30-day time limit.[1] The petition does not conform perfectly with the Commission's rules of practice, which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, section of the Commission's rules of practice calls for a liberal constrution of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Seapines station be reconsidered. From the face of the petition it is unclear whether any hearings were held and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's Final Determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under § 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

Upon preliminary inspection, the petition appears to raise the following issues of law;

1. Whether the Postal Service's actions with regard to the Seapines station in Virginia Beach, Virginia must comply with the requirements of 39 U.S.C. 404(b).

2. Whether the Postal Service considered the change the closing would cause in the community's use of the postal services under the effect on postal service factor, § 404(b)(2)(C).

The first issue, whether a closing of the Seapines station is a consolidation or closing of a post office within the meaning of 39 U.S.C. 404(b), is a threshold question which should be addressed at an early stage in this proceeding. Therefore, we are requesting the Postal Service to file, within 20 days of the issuance of this Order, a memorandum on this subject. The Postal Service is to serve Petitioner with a copy of the memorandum. In the interests of procedural fairness and administrative efficiency, we will modify the usual schedule for the filing of the Petitioner's brief so that it is due 30 days after the Postal Service is to file its memorandum rather than 30 days after the petition is filed.

Other issues of law may become apparent when the Commission has had the opportunity to examine the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in Lone Grove, Texas, *et al.*, docket Nos. A79-1, *et al.* (May 7, 1979), and the Commission's subsequent decisions on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by § 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service in addition to the one requested previously in this Order on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the determination and record pursuant to § 113 of the rules of practice (39 CFR 3001.113) make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dimiss for want of prosecution in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases,[8] and none is being appointed.

The Commission orders that:

(A) The letter of August 17, 1981, from Mrs. Forrest P. Anderson be construed as a petition for review pursuant to § 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal** Register.

(C) The Postal Service shall file a memorandum by September 21, 1981, on

---

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.111(a).

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 43 F.R. 59079-85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

whether 39 U.S.C. 404(b) is applicable to the action of the Postal Service complained of in the petition.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

August 17, 1981—Filing of Petition.
August 31, 1981—Notice and Order of Filing of Appeal.
September 14, 1981—Filing of record by Postal Service (*see* 39 CFR 3001.113(a)).
September 21, 1981—Last day for filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
September 21, 1981—Filing of Postal Service's legal memorandum.
October 12, 1981—Petitioner's initial brief (*see* 39 CFR 3001.115(a)).
October 27, 1981—Postal Service answering brief (*see* 39 CFR 3001.115(a)).
November 11, 1981:
(1) Petitioner's reply brief, should petitioner choose to file such brief (*see* 39 CFR 3001.115(c)).
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
December 5, 1981—Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 81-25872 Filed 9-3-81; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18068; File No. SR-Amex-81-16]

American Stock Exchange, Inc.; Proposed Rule Change; Self-Regulatory Organization

Proposed Rule Change relating to Implementation of OARS for Options.

Comments requested on or before September 25, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 17, 1981, the American Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange proposes to amend Rule 950 to provide for the implementation and operation of the Opening Automated Report Service ("OARS" or the "Service") for options and to amend Exchange Rules 960, 963, and 116 to reflect technical changes necessitated by the adoption of option OARS.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it recieved on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* The proposed rule changes will provide for the implementation and operation of options OARS, an electronic system to store and automatically report executions of market orders for options received before the opening of trading, and special trade comparison and clearing procedures to be used in conjunction with the Service. The Service will operate in the same manner as the existing equity OARS system which the Commission recently approved (see File No. SR-Amex-81-5), with the exception of trade comparison. Also proposed are technical amendments to Exchange rules which are necessary in connection with the implementation of option OARS.

Amendment of Rule 950

Option OARS, like equity OARS, is intended to assist specialists with openings of active securities, reduce the clerical workload at the opening, reduce paperwork, and provide immediate execution reports and guaranteed comparisons of all eligible orders received in the system. Pursuant to proposed Rule 950(m), the Service, which is an enhancement to the existing Amex Options Switching System ("AMOS"), will operate in the following manner to enable a specialist to open or reopen any option series using OARS:

1. OARS will accept and store all AMOS eligible market orders received prior to the opening.

2. The specialist will recieve, at designated times, a report indicating the contract volume to buy and to sell, and the resulting imbalance, if any.

3. When the specialist is ready to open the option series, he will enter the opening price into the system and a system "freeze" will be effected; new orders reaching the system will be printed at the post, cancellations and administrative messages will be held in a pending state and a message will print at the post indicating the final "buy" total, "sell" total, imbalance and opening price.

4. The specialist will then verify and reenter the opening price and the system will transmit execution reports for all orders stored in the system.

5. Each execution report will name "ASE" as the contra clearing name for comparison; such report will be guaranteed a compared trade.

6. Any OARS imbalance will be filled from the book, the crowd, or the specialist's own account; the "give up" name for the imbalance will be "AUTO".

While option OARS as described abve is identical to equity OARS with regard to trading, there is a significant difference in trade comparison as the result of the shorter next-day settlement cycle for options as compared to the five-day cycle for equities. For both equities and options, pseudo-clearing names are interposed between orders represented in the system and other orders, outside the system, which are executed against the imbalance. These names are not permitted to have a net position on either side of the market, and therefore must balance out in comparison. because equities settlement permits two days to research errors and omissions while options settlement requires that a balance be achieved on trade date, the options comparison system has been programmed to force a balance of the pseudo-clearing names automatically. Pursuant to proposed Rule 950(m), the comparison system will therefore operate in the following manner:

1. The "ASE" side of trades entered through AMOS and executed in OARS will be submitted to comparison by the OARS system and compared with clearing member input in the normal way; if the member fails to submit the trade correctly by the time of the Final Comparison Cycle, the system will automatically generate a comparison entry using the execution report from the OARS system, resulting in a compared trade.

2. The trades for which the specialist has given up "AUTO" will be submitted

by the specialist to the Exchange for comparison with clearing member input, and comparison processing will be the same as for normal trades. The Specialist's clearing firm will receive the lists of uncompared items involving "AUTO", and will attempt to correct errors and omissions prior to the Final Comparison Cycle; if the "ASE" and "AUTO" names do not balance out in the Final Comparison Cycle, the system will automatically generate a trade comparison entry between "AUTO" and the specialist's account to force a balance. The specialist will then be advised of such an entry on his final option contract lists, and will take over any related claims against clearing members for failing to compare with "AUTO," until the item can be researched the following day.

Technical Amendments

Exchange Rule 960 is proposed to be amended to provide that all options transactions stored in OARS shall be cleared and compared in accordance with Rule 950(m) rather than in accordance with the usual option comparison and clearance rule. Rule 963 requires the Exchange to off-set comparisons of trade information submitted by clearing members of The Options Clearing Corporation and to issue to each member contract lists and uncompared trade lists. It is proposed to amend Rule 963 to require the Exchange to additionally effect comparison of trade information submitted by the Exchange for option transactions involving orders stored in OARS and to issue uncompared trade lists of trade reported by the Exchange (called "advisory trades") involving orders stored in OARS. Rule 116, which sets forth OARS procedures for equities is proposed to be amended to reflect that OARS is generally applicable to options trading as well.

(b) *Basis.* The proposed rule changes are generally consistent with the Securities Exchange Act of 1934 (the "Act") and rules and regulations thereunder. In particular, they further the objectives of Section 6(b)(5) of the Act in that they will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitiating transactions in securities. The extension of new data processing and communications techniques to options trading will also result in more efficient and effective market operations, consistent with section 11A(a)(1)(B) of the Act. Furthermore, they advance the objective of Section 17A(a) of the Act by facilitating the prompt and accurate clearance and settlement of securities transactions and by introducing more efficient procedures for the clearance and settlement operation.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange has determined that the proposed rule changes will not have an impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received, or are to be solicited in the future, with respect to the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 9, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 25, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 28, 1981

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25925 Filed 9-3-81; 8:45 am]

BILLING CODE 8010-01

[Release No. 34-18071; File No. SR-DTC-81-4]

Depository Trust Co.; Proposed Rule Change Self-Regulatory Organizations

Proposed rule change relating to eligibility of Units at The Depository Trust Company. Comments requested on or before September 25, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 31, 1981, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Participants of DTC in several discussions with senior management over the past several years have urged that Units be made eligible for inclusion in the computerized book-entry pledge and transfer system in effect at DTC. The Participants felt the lack of a centralized method for the handling of Units increased the difficulty of control in the handling and accounting for the Units and concomitantly increased the cost to each individual Participant as well as in overall increase in "fails-to-deliver" in the securities industry in general. The proposed change in the Participant Operating Procedures allows the processing of Units and their components through the book-entry system at DTC, enabling Participants to separate a Unit into its components or combine the components to create a Unit, by book-entry, pursuant to instructions of each Participant on or after separation date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change is consistent with the requirements of the Securities and Exchange Act of 1934 and the rules and regulations thereunder applicable to DTC because the change permits the inclusion of Units, which presents accounting and handling problems for members of the financial and securities industry including Participants of DTC, in the computerized book-entry transfer and pledge system in effect at DTC. The proposed rule change expands the number of issues eligible for services provided by DTC.

An additional degree of flexibility in management of the Participant's account is provided with the eligibility of Units; a Participant may change its position from Units to components and from components to Units by book-entry as they wish thus enabling a Participant to quickly and easily manage its DTC position in anticipation of subsequent book entry activity in DTC or for compatibility with the Participant's internal accounting system.

The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible, because DTC's existing safeguards for securities, including its insurance programs, physical security, and internal and external auditing procedures, will be applicable to units and unit components.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change from DTC Participants or others have not been solicited. Participants have been notified of the proposed rule change by the DTC Important Notice attached as Exhibit 1A to DTC's filing on Form (b)–4, File Number SR–DTC–81–4.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and sub-paragraph (E) of the Securities Exchange Act Rule 19b–4. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 25, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 28, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25924 Filed 9-3-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18072; File No. SR-OCC-81-8]

Options Clearing Corp.; Proposed Rule Change; Self-Regulatory Organizations

Proposed Rule Change relating to the elimination of exercise settlement accounts with correspondent clearing corporations.

Comments requested on or before September 25, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 24, 1981, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

OCC Proposes to amend its Rules 913(c) and 914 to eliminate the present requirement that Clearing Members maintain exercise positions in a separate exercise settlement account with their correspondent clearing corporations. Under the proposed change, OCC's obligation with respect to an exercised option will terminate at the opening of business on the exercise settlement date provided that the exercise has been reported to the designated clearing corporations of the Delivering and Receiving Clearing Members. OCC proposes to delete Rules 915 and 916 to eliminate OCC's responsibility in the event of a default by a correspondent clearing corporation in its obligation with respect to exercise positions.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

Under OCC's By-laws, OCC is obligated to option holders upon exercise of the option contract: (1) in the case of a call, to sell to the holder the underlying security at the exercise price and (2) in the case of a put, to purchase the underlying security from the holder at the exercise price. Exercises are ordinarily transmitted to the designated correspondent clearing corporation of

the Clearing Member for settlement. The exercises then become the obligation of the correspondent clearing corporation. Positions resulting from exercises are presently carried in a special "exercise settlement account" of the exercising Clearing Member at the correspondent clearing corporation. To the extent that exercise positions are held in such accounts, OCC in effect guarantees the performance by the correspondent clearing corporation of its obligation with respect to those positions. Segregation in a special account is an essential term of the guarantee because exercise positions would otherwise be indistinguishable from other long and short valued positions in the same securities existing in the Clearing Member's regular account.

Special exercise accounts have not been favored by Clearing Members because they reduce the amount of netting which could otherwise occur in Clearing Members' regular accounts and because they create additional bookkeeping and clerical expenses for the Clearing Members. The only purpose served by the accounts is to identify exercise positions which are subject to OCC's guarantee in the event of the correspondent clearing corporation's failure to perform.

The proposed rule change will eliminate exercise settlement accounts by eliminating the need for them. The proposed change will alter the terms of OCC's obligation to holders of option contracts in that OCC will be deemed to have performed its obligation to an option contract holder as of the opening of business on the exercise settlement date.

Given the history of satisfactory performance by all clearing corporations subject to the regulatory jurisdiction of the Commission, OCC believes that the risk of loss to a Clearing Member through the default of a correspondent clearing corporation is minimal and does not justify the expense and inefficiency inherent in exercise settlement accounts. Moreover, OCC believes that the risk of loss to the exercising option holder is minimal since, under current trade practice, the receipt and delivery of securities by brokers is not allocated to customers on a trade by trade basis. Accordingly, OCC believes that the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the clearance and settlement of securities transactions, and generally protects investors and the public interest, all as required by section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the "Act").

It is intended that the proposed rule change will be applicable only with respect to options series which are first opened after the change becomes effective.

(B) Burden on competition

The proposed rule change will have no effect on competition.

(C) Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change. No written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before October 9, 1981 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements, with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before September 25, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 28, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-25923 filed 9-3-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 10/13-5027]

Alyeska Investment Co.; License Surrender

Notice is hereby given that Alyeska Investment Company, 234 East 2nd Avenue, Anchorage, Alaska 99501, has surrendered its license to operate as a small business investment company pursuant to 13 CFR 107.105 (1981) of the Small Business Administration's Rules and Regulations governing small business investment companies.

Alyeska Investment Company was licensed on June 18, 1971, to operate as a Section 301(d) small business investment company whose investment policy is to invest in small concerns owned, controlled and operated by socially or economically disadvantaged persons under the provisions of the Small Business Investment Act of 1958 (the Act) as amended (15 U.S.C. 661 *et seq.*)

Under the authority vested by the Act and pursuant to the cited Regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises therefrom are cancelled.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-25948 Filed 9-3-81; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09-09-0292]

California Capital Investors, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (CFR 107.102(1981)), under the name of California Capital Investors, Ltd., a limited partnership, 2001 South Barrington Avenue, Suite 111, Los Angeles, California 90025, for a license

to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 611 *et seq.*), and the Rules and Regulations promulgated thereunder.

The Proposed General Partner and Limited Partners Owning 10 or More Percent of the Partnership Capital

General Partner

California Capital Investors, Inc., 2001 South Barrington Avenue, Suite 111, Los Angeles, California 90025
Harold A. Haytin, 667 Ledo Way, Los Angeles, Ca. 90049, Chairman of the Board, 50 percent
Arthur H. Bernstein, 2612 Claray Drive, Los Angeles, Ca 90024, President, Director, 50 percent
Barbara E. Bernstein, 2612 Claray Drive, Los Angeles, Ca 90024, Director
Lois Haytin, 667 Ledo Way, Los Angeles, Ca. 90049, Director

Limited Partners

Harold A. Haytin, 667 Ledo Way, Los Angeles, Ca. 90049a, 11.5
Mechanics National Bank, 16250 Gundry Avenue, Paramount, Ca 90723, 17.4

More Than 10 Percent Owners of Mechanics National Bank

Albert N. Greenfield, 2795 McConnell Drive, Los Angeles, Ca 90064
Frank R. Randall, 511 Via Lido Soud, Newport Beach, Ca 92663

California Capital Investors, Inc., is a California General Partnership organized solely to organize and capitalize the Applicant which will begin operations with an initial capitalization of $870,000. No concentration in any particular industry is planned. The Applicant anticipates investing a material portion of its assets in existing companies, although new and emerging enterprises will be considered as well. The Applicant intends initially to conduct its operations principally in the State of California.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing would be in furtherance of the purpose of the Act.

Notice is hereby given that any person may not later than September 21, 1981, submit to SBA, in writing relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Companies)

Dated: August 27, 1981.

Peter F. McNeish,

Actng Associate Administrator for Investment.

[FR Doc. 81-25948 Filed 9-3-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 07/07-5082]

Central System Equity Corp.; Issuance of License To Operate as a Small Business Investment Company

On March 3, 1981, a notice was published in the **Federal Register** (46 FR 15015), stating that an application had been filed by Central Systems Equity Corporation, 350 W. Douglas, Wichita, Kansas 67202, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a license to operate as a section 301(d) small business investment company.

Interested parties were given until the close of business March 18, 1981, to submit their written comments to SBA. No comments were received. Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 07/07-5082, on July 29, 1981, to Central Systems Equity Corporation to operate as a section 301(d) Licensee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1981.

Peter F. McNeish,

Acting Associate Administration for Investment.

[FR Doc. 81-25944 Filed 9-3-81; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5265]

Pacific Capital Fund, Inc.; Isssuance of a License To Operate as a Small Business Investment Company

On October 21, 1980, a notice was published in the **Federal Register** (45 FR 69618), stating that Pacific Capital Fund, Inc., located at 500 Airport Boulevard, Suite 400, Burlingame, California 94010, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1980), for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business November 5, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-5265 to Pacific Capital Fund, Inc., on July 27, 1981.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1981.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 81-25945 Filed 9-3-81; 8:45 am]

BILLING CODE 8025-01-M

Request for Identification of Regulations Burdensome to Small Business

The Regulatory Identification Working Group of the Small Business Administration requests comments on specific regulations which are adversely affecting small businesses. The SBA Working Group is part of the Administration's Task Force on Regulatory Relief chaired by Vice President Bush. Small business owners and managers are asked to report the specific regulations causing a compliance or paperwork burden and any cost estimates which can be developed. Organizations and associations may comment on behalf of their small business members. Please submit comments by October 1st, to: Regulatory Identification Working Group, Office of the Chief Counsel for Advocacy, Room 1012, 1441 L Street, NW., Washington, D.C. 20416.

Dated: August 31, 1981.

Frank S. Swain,

Chief Counsel for Advocacy.

[FR Doc. 81-25947 Filed 9-3-81; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 172
Friday, September 4, 1981

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).

CONTENTS

	Items
Civil Rights Commission	1
Commodity Credit Corporation	2
Commodity Futures Trading Commission	3
Legal Services Corporation	4
National Transportation Safety Board	5
Nuclear Regulatory Commission	6

1

COMMISSION ON CIVIL RIGHTS.

DATES AND TIME: Wednesday, September 9, 1981, 1:30–5:00 p.m.; Thursday, September 10, 9:00 a.m.–12 noon; 1:30–5:00 p.m.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: September 9, 1981:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Review of Affirmative Action Statement
IV. Review of Battered Women and the Administration of Justice
V. Review of Federal Response to Battered Women Report Recommendations

September 10, 1981:

VI. Update on Regulatory Developments
VII. State Advisory Committee Re-charters
  A. Kansas
  B. Montana
  C. Illinois
  D. South Carolina
  E. District of Columbia
  F. Maryland
VIII. State Advisory Committee Interim Appointments
  A. Alaska
  B. South Dakota
IX. State Advisory Committee Reports
  A. Action re: Minnesota Advisory Committee Report Entitled *Police Practices in the Twin Cities*
  B. Transmittal of District of Columbia Report Entitled *Police-Community Relations in Washington, D.C.*
  C. Transmittal of Iowa Advisory Committee Report Entitled *Race Relations in Tama County*
  D. Transmittal of New Jersey Advisory Committee Report Entitled *Equal Employment Opportunity in State and Local Government*
X. Civil Rights Developments in the Mid-Atlantic Region
XI. Staff Director's Report (July and August)
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division (202) 254–6697.

[S-1326-81 Filed 9-2-81; 9:35 am]

BILLING CODE 6335-01-M

2

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 10:45 a.m., September 14, 1981.

PLACE: Room 104, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board Meeting on July 6, 1981 and July 29, 1981.
2. Docket WCP 319 re: Extended storage use guarantees to insure CCC long-term storage for grain and processed commodities.
3. Docket WCX 312 re: Food security wheat reserve.
4. Memorandum re: Commodities available for sale to foreign governments or their agents and international relief organizations during fiscal years 1981 and 1982.
5. CCC Board ratification of New Zealand butter sale.

Closed portion of meeting:

6. Docket FCZ 247, Revision 1, Amendment 2 re: Policy on CCC interest rates on commodity loans, grain reserve loans, farm storage and drying equipment loans and certain price support purchase transactions.
7. Resolution re: CZ 266, Resolution 19, Commodities available for Public Law 480 during fiscal year 1982.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3088-South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–7583.

[S-1327-81 Filed 9-2-81; 10:41 am]

BILLING CODE 3410-05-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 9, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor conference room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed Contract Market Designation—Mid-America Commodity Exchange
15-Year United States Treasury Bond Futures Contract

TIME AND DATE: 10 a.m., Tuesday, September 8, 1981.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Proposed Commission Regulations for Exchange-Traded Options.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1328-81 Filed 9-2-81; 11:36 am]

BILLING CODE 6351-01-M

4

LEGAL SERVICES CORPORATION.

Committee on Appropriations and Audit

TIME AND DATE: 9 a.m.–5 p.m., Saturday, September 12, 1981.

PLACE: Legal Services Corporation, Eighth floor conference room 2, 733 15th Street, N.W., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of March 5, 1981 Meeting.
3. Report on Fiscal Year Appropriation.
4. Third Quarter Budget Review for Fiscal Year 1981.
5. Fiscal Year 1982 Budget.
6. Fiscal Year 1983 Budget Request Mark.
7. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, telephone (202) 272–4040.

Issued: September 2, 1981.

Dan J. Bradley,
President.

[S-1329-81 Filed 9-2-81; 3:12 p.m.]

BILLING CODE 6820-35-M

5

NATIONAL TRANSPORTATION SAFETY BOARD.

[N-AR 81-32]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 43793, August 31, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Wednesday, September 9, 1981.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Special Study:* Cabin Safety in Large Transport Aircraft and *Recommendations* to the Federal Aviation Administration.
2. *Special Investigation Report:* Evacuation of a United Airlines DC-8-61, Sky Harbor International Airport, Phoenix, Arizona, December 29, 1980, and *Recommendations* to the Federal Aviation Administration.
3. *Special Study:* Pipeline Excess Flow Valves, and *Recommendations* to the Gas Research Institute, the American Society of Mechanical Engineers Gas Piping Standards Committee, and the Research and Special Programs Administration.
4. *Special Study:* Major Marine Collisions and Effects of Preventive Recommendations, and *Recommendations* to the U.S. Coast Guard.
5. *Special Study:* Fatalities and Injuries Associated With Riding in Open-Cargo Areas of Vehicles.
6. *Safety Effectiveness Evaluation:* Coordination of the federal Highway Administration and the National Highway Traffic Safety Administration in Small Car Vehicle-Highway-Driver Safety Problems.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-382-6525.

September 2, 1981.

[S-1331-81 Filed 9-2-81; 3:33 pm]

BILLING CODE 4910-58-M

6

NUCLEAR REGULATORY COMMISSION.

DATE: Week of September 7, 1981.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, September 8:*

10:00 a.m.:
1. Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

2:00 p.m.:
1. Discussion and Possible Vote on Operating License for Sequoyah Unit 2 (public meeting) (postponed from September 1)

Wednesday, September 9:

2:00 p.m.:
1. Discussion and Possible Vote on Revised Licensing Procedures—Proposed Rule Change to Part 2 and Modifications to Immediate Effectiveness Rule (public meeting)

Thursday, September 10:

10:00 a.m.:
1. Discussion of Congressional Testimony (closed meeting)

2:00 p.m.
1. Discussion of Low-Power Operating License for Diablo Canyon (open/closed meeting) (approximately 1½ hours)
2. Affirmation/Discussion Session (open/closed meeting)

Items to be affirmed and/or discussed:
a. Response to Requests for Hearings in the Matter of Proposed Decontamination of Dresden Unit 1
b. EDO Delegations of Authority
c. Modifications to Immediate Effectiveness Rule with Regard to Fuel Loading and Low-Power Operating Licenses
d. Integrated Operational Experience Reporting System
e. Psychological Impacts in the TMI-1 Restart Proceeding
f. Fees for Withdrawn Applications for Power Reactor Construction Permits, Operating Licenses, and Other Approvals or Reviews
g. Rulemaking to Incorporate in 10 CFR Part 2 APA's "Military and Foreign Affairs Exception" to Adjudications (closed discussion)

ADDITIONAL INFORMATION: By a vote of 4-0, Commissioner Bradford not present, on August 26, the Commission determined pursuant to 5 U.S.C. 552b(e) and §9.107(a) of the Commission's Rules that Commission business required that Discussion of Pending Litigation, held that day, be held on less than one week's notice to the public and in closed session.

Affirmation of Protection of Unclassified Safeguards Information, scheduled for August 26, was cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

September 1, 1981.

Walter Magee,

Office of the Secretary.

S-1330-81 Filed 9-2-81 3:33 pm]

BILLING CODE 7590-01-M

federal register

Friday
September 4, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

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 on construction projects 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, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

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.

Alabama: AL80–1069—June 6, 1980; AL80–1091—Sept. 5, 1980; AL81–1265—July 10, 1981; AL81–1266—July 24, 1981; AL81–1267—July 10, 1981; AL81–1273—July 31, 1981.
Florida: FL81–1260—July 6, 1981.
California: CA81–5119—May 15, 1981; CA81–5128—July 6, 1981; CA81–5132—July 10, 1981.
Georgia: GA81–1191—Mar. 6, 1981; GA81–1196–Mar. 20, 1981.
Hawaii: HI81–5141—Aug. 14, 1981.
New York: NY81–3016—Mar. 6, 1981; NY81–3048—July 17, 1981.
Utah: UT81–5117—May 8, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL79–1129(AL81–1288)—Sept. 21, 1979; AL79–1134(AL81–1289)—Nov. 9, 1979; AL80–1070(AL81–1284—June 6, 1980.
Colorado: CO81–5133(CO81–5145)—July 31, 1981; CO81–5134(CO81–5146)—July 31, 1981; CO81–5135(CO81–5147)—July 31, 1981; CO81–5137(CO81–5148)—July 31, 1981; CO80–5126(CO81–5149)—Sept. 5, 1980.
Kentucky: KY80–1106(KY81–1283)—Oct. 17, 1980.
Massachusetts: MA80–3064(MA81–3054)—Oct. 31, 1980.
Michigan: MI78–2023(MI81–2059)—Mar. 10, 1978.
Mississippi: MS81–1223(MS81–1287)—May 8, 1981; MS81–1224(MS81–1285)—May 8, 1981; MS81–1264(MS81–1286)—July 10, 1981.

Oklahoma: OK80-4065(OK81-4069)—July 25, 1980; OK80-4067(OK81-4072)—July 25, 1980; OK80-4068(OK81-4070)—Aug. 1, 1980.
Pennsylvania: PA80-3030(PA81-3051)—May 30, 1980.
South Dakota: SD81-5121(SD81-5150)—May 22, 1981; SD81-5122(SD81-5151)—May 22, 1981.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 28th day of August 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AL80-1069 - MOD. #2 (45 FR 38239 - June 6, 1980) Tuscaloosa County, Alabama Building Construction					
CHANGE:					
SHEET METAL WORKERS	$12.88	.79	1.07		.09
DECISION NO. AL80-1091 - MOD. # 2 (45 FR 59094 - September 5, 1980) Jefferson, Shelby, & St. Clair Counties, Alabama Building Construction					
CHANGE:					
SPRINKLER FITTERS	$13.69	.95	1.40		.08
TILE SETTERS	11.00		.60		
SHEET METAL WORKERS	12.88	.79	1.07		.09
DECISION NO. AL81-1265 - MOD. #1 (46 FR 35859 - July 10, 1981) Etowah County, Alabama Building Construction					
CHANGE:					
SHEET METAL WORKERS	$12.88	.79	1.07		.09
DECISION NO. AL81-1266 - MOD. #1 (46 FR 38241 - July 24, 1981) Lawrence, Limestone, and Morgan Counties, Alabama BUILDING CONSTRUCTION					
CHANGE:					
ELECTRICIANS:					
- Electricians & Linemen	$13.00	.65	3% + .70		
Cable Splicers	13.25	.65	3% + .70		
Groundmen	12.00	.65	3% + .70		
SHEET METAL WORKERS	12.88	.79	1.07		.09

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AL81-1267 - MOD. # 1 (46 FR 35860 - July 10, 1981) Madison County, Alabama Building Construction					
CHANGE:					
ELECTRICIANS	$13.00	.65	3% + .70		
SHEET METAL WORKERS	12.88	.79	1.07		.09
DECISION NO. AL81-1273 - MOD. # 1 (46 FR 39364 - July 31, 1981) Mobile County, Alabama Building Construction					
CHANGE:					
IRONWORKERS, Structural, Ornamental, & Reinforcing	$12.66	.65	.60		.10
DECISION NO. FL81-1260 - MOD. #4 (46 FR 34968 - July 6, 1981) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, & Melabar Radar Sites in Brevard & Volusia Counties, Florida					
Change:					
Elavator Constructors					
Mechanic	$11.56	1.345	1.08	a + b	.035
Helper	8.09	1.345	1.08	a + b	.035
Line Construction					
Linemen & Class A Operators	12.77	.45	3%		1%
Cable Splicers	12.92	.45	3%		1%
Class B operators	8.94	.45	3%		1%
Groundmen	6.59	.45	3%		1%
Roofers					
Roofers	10.00	.40	.25		.05
Kettlemen	8.55	.40	.25		.05

DECISION NO. CA81-5119 - Mod. #2
(46 FR 27017 - May 15, 1981)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California					
Change:					
Boilermakers	$17.61	$1.30	$1.25	$1.00	.04
Bricklayers:					
Area 6	16.35	1.60	1.70		.20
Brick Tenders:					
Area 1	13.73	1.30	1.75		
Area 2	12.23	1.15	2.25	1.55	
Electricians:					
Area 2:					
Electricians	18.60	1.25	3%+3.50		.10
Area 4:					
Electricians	19.06	1.34	3%+2.65		1/4%
Cable Splicers	21.44	1.34	3%+2.65		1/4%
Area 9:					
Electricians	19.66	1.15	3%+4.92		.20
Cable Splicers	22.12	1.15	3%+4.92		.20
Area 12:					
Electricians	19.66	1.15	3%+4.92		.20
Cable Splicers	22.12	1.15	3%+4.92		.20
Ironworkers:					
Fence Erectors	14.46	1.44	3.81	2.50	.12
Reinforcing; Ornamental; Structural	15.35	1.44	3.81	2.50	.12
Roofers:					
Area 1:					
Roofers	15.25	1.27	2.50	2.00	.10
Mastic Workers:					
Kettleman (2 kettles w/o pumps)	15.50	1.27	2.50	2.00	.10
Bitumastic: Enamelers; Pipewrapper; Coal Tar built up	17.25	1.27	2.50	2.00	.10

DECISION NO. CA81-5119 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 4:					
Roofers	$15.00	$1.10	$1.95	$2.99	.10
Mastic Workers:					
Kettleman (2 kettles w/o pumps)	15.25	1.10	1.95	2.99	.10
Bitumastic; Enamelers; Pipewrappers; Coal Tar built up	17.50	1.10	1.95	2.99	.10
Area 7:					
Roofers	15.50	1.20	1.90	2.59	.10
Mastic Workers:					
Kettlemen (2 kettles w/o pumps)	15.75	1.20	1.90	2.59	.10
Bitumastic; Enamelers; Pipewrappers; Coal Tar	17.50	1.20	1.90	2.59	.10
Sheet Metal Workers:					
Area 3	16.51	1.28	2.68		.13
Area 5	19.36	1.30	3%+2.60		.16
Laborers:					
Group 1	13.19	1.30	1.75	1.40	.10
Group 1a	13.415	1.30	1.75	1.40	.10
Group 1b	13.69	1.30	1.75	1.40	.10
Group 1c	13.24	1.30	1.75	1.40	.10
Group 1d	13.44	1.30	1.75	1.40	.10
Group 1e	13.74	1.30	1.75	1.40	.10
Group 1f	13.775	1.30	1.75	1.40	.10
Group 1g	13.39	1.30	1.75	1.40	.10
Gunnite:					
Group 1	13.65	1.30	1.75	1.40	.10
Group 2	13.06	1.30	1.75	1.40	.10
Group 3	12.94	1.30	1.75	1.40	.10

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solono and Sonoma Counties

Area 2: Amador, Calaveras, Del Norte, El Dorado, Humboldt, Mariposa, Merced, Nevada, Placer, Sacramento, San Joaquin, Sutter, Tuolumne, Yolo and Yuba Counties

Modification Page 5

DECISION NO. CA81-5119 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$13.08	$15.08	$2.09*	$3.00	$1.55	.34
Group 2	13.49	15.49	2.09*	3.00	1.55	.34
Group 3	13.74	15.74	2.09*	3.00	1.55	.34
Group 4	14.39	16.39	2.09*	3.00	1.55	.34
Group 5	14.64	16.64	2.09*	3.00	1.55	.34
Group 6	14.82	16.82	2.09*	3.00	1.55	.34
Group 7	15.00	17.00	2.09*	3.00	1.55	.34
Group 8	15.52	17.52	2.09*	3.00	1.55	.34
Group 9	15.78	17.78	2.09*	3.00	1.55	.34
Group 10	16.04	18.04	2.09*	3.00	1.55	.34
Group 10-A	16.18	18.18	2.09*	3.00	1.55	.34
Group 11	16.39	18.39	2.09*	3.00	1.55	.34
Group 11-A	17.75	19.75	2.09*	3.00	1.55	.34
Group 11-B	18.09	20.09	2.09*	3.00	1.55	.34
Group 11-C	18.46	20.46	2.09*	3.00	1.55	.34

*Includes $.44 per hour to Pensioned Health and Welfare Fund.

Modification Page 6

DECISION NO. CA81-5128 - Mod. #2
(46 FR 34951 - July 6, 1981)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Area 4:					
Brush, Pot Tender	$15.98	1.25	1.83		.03
Paperhangers, Paste Machine Operators	16.23	1.25	1.83		.03
Iron and Steel	16.23	1.25	1.83		.03
Spray, Taper, Sandblaster	16.48	1.25	1.83		.03
Steeplejack	16.98	1.25	1.83		.03
PLASTERERS' TENDERS: Area 7:	17.59	1.37	2.90	1.45	
SHEET METAL WORKERS: Area 6:	17.82	1.20	2.57		.06
OMIT:					
SHEET METAL WORKERS: Area 7:					

DECISION NO. CA81-5132 - Mod. #2
(46 FR 35860 - July 10, 1981)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties					
Change:					
Electricians:					
Area 5:					
Electricians; Technicians	$19.06	$1.34	3%+2.65		1/4%
Cable Splicers	21.44	1.34	3%+2.65		1/4%
Area 11:					
Electricians	19.66	1.15	3%+4.92		.20
Cable Splicers	22.12	1.15	3%+4.92		.20
Area 14:					
Electricians	19.66	1.15	3%+4.92		.20
Cable Splicers	22.12	1.15	3%+4.92		.20
Lathers:					
Area 8	16.46	.95	.90		.01
Line Construction:					
Area 6:					
Groundman	14.87	1.15	3%+3.72		
Linemen, Technicians	19.82	1.15	3%+4.96		
Cable Splicers	22.27	1.15	3%+4.96		
Area 14:					
Groundmen	14.87	1.15	3%+3.72		
Linemen	19.82	1.15	3%+3.72		
Cable Splicers	22.27	1.15	3%+3.72		
Plasterers:					
Area 7	15.06	1.25	1.35	2.50	.01
Plumbers;Steamfitters					
Area 8	21.14	1.60	3.12		.25
Area 7	21.17	1.35	4.09	1.00	.36
Area 6	14.32	1.60	4.00	2.00	.10
Plumbers					
Area 1	22.67	1.65	3.37		.16
Area 2	22.33	1.65	3.89		.30

DECISION NO. CA81-5132 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Area 1:					
Roofers	$15.25	$1.27	$2.50	$2.00	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.50	1.27	2.50	2.00	.10
Bitumastic; Enamelers; Pipewrappers; Coal Tar Built up	17.25	1.27	2.50	2.00	.10
Area 5:					
Roofers	15.00	1.10	1.95	2.99	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.25	1.10	1.95	2.99	.10
Bitumastic; Enamelers; Pipewrappers; Coal Tar Pitch	17.00	1.10	1.95	2.99	.10
Area 8:					
Roofers	15.50	1.20	1.90	2.59	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	15.75	1.20	1.90	2.59	.10
Bitumastic; Enamelers; Pipewrappers; Coal Tar	17.50	1.20	1.90	2.59	.10
Sheet Metal Workers:					
Area 3	16.51	1.28	2.68		.13
Area 5	19.36	1.30	3%+2.60		.16
Omit:					
Carpenters (entire schedule as previously issued)					
Add:					
Carpenters:					
Area 1:					
Carpenters; Millwrights	16.95	1.705	1.95	1.35	.12
Communication Technician	12.85	.78	.70	1.59	

DECISION NO. CA81-5132 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hardwood Floorlayers; Shinglers; Power Saw Operator; Steel Scaffold Erector and Steel Shoring; Saw Filers	$17.10	$1.705	$1.95	$1.35	.12
Area 2:					
Carpenters	16.05	1.705	1.95	1.35	.12
Hardwood Floorlayers; Shinglers; Power Saw Operators; Steel Scaffold Erector and Steel Shoring; Saw Filers	16.20	1.705	1.95	1.35	.12

AREA DESCRIPTIONS

CARPENTERS:

Area 1: Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma

Area 2: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba

DECISION #GA81-1191 - Mod. #5 (46 FR 15645 - March 6, 1981) Clayton, DeKalb, & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers:					
Group 1	$ 8.56	.40	.47		.10
Group 2	8.78	.40	.47		.10
Group 3	9.06	.40	.47		.10
Group 4	9.31	.40	.47		.10
Group 5	9.63	.40	.47		.10
Group 6 (25¢ above rate for classification under which employed)					
DECISION #GA81-1196 - Mod. #2 (46 FR 17987 - March 20, 1981) DeKalb & Fulton Counties, Georgia					
CHANGE:					
Laborers:					
Unskilled	$ 8.56	.40	.47		.10
Air tool operators (air, electric, or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipe layers	8.78	.40	.47		.10
Tunnel laborers	9.31	.40	.47		.10
Powdermen	9.63	.40	.47		.10
Miners	11.16	.40	.47		.10
DECISION NO. HI81-5141 - Mod #2 (46 FR 41312 - August 14, 1981) Statewide Hawaii					
CHANGE:					
ASBESTOS WORKERS	$13.88	.90	2.90		.06
PLASTERERS	13.04	1.45	2.45	.70	.21
PLUMBERS, Steamfitters	14.00	1.05	2.05	15%	.15

Modification Page 11

DECISION NO. NY81-3016 - Mod #3
(46 FR 15657, March 6, 1981)
Dutchess County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Description of Work does not include Water Well Drilling					

DECISION NO. NY81-3048 - Mod. #1
(46 FR - 37193 July 17, 1981)
Nassau & Suffolk Counties, New York

Change:					
LABORERS, BUILDING	11.74	1.53	1.53	1.00	
LABORERS, HEAVY & HIGHWAY					
Concrete & curb form setters, asphalt rakers	10.04	10%	13%	.75+a	
Asphalt workers & roller boys, asphalt top shovelers & smoother, asphalt tampers	9.83	10%	13%	.75+a	
Jackhammers, drill men, hoppermen, carpenters' tenders, pile jointers & setters, concrete (structures), stone spreading, trackman, grading & excavating, yard laborers, puddlers on concrete pavement, asphalt plant (batch & hopperman), all other unskilled laborers	9.41	10%	13%	.75+a	

Modification Page 12

DECISION NO. UT81-5117 - Mod. #5
(46 FR 25986 - May 8, 1981)
Statewide, Utah

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:	AREA 1	AREA 2				
Power Equipment Operators						
Building Construction:						
Group 1	$10.78	$12.78	$1.33	$1.785	$1.00	.08
Group 2	11.17	13.17	1.33	1.785	1.00	.08
Group 3	11.37	13.37	1.33	1.785	1.00	.08
Group 4	11.48	13.48	1.33	1.785	1.00	.08
Group 5	11.99	13.99	1.33	1.785	1.00	.08
Group 6	12.16	14.16	1.33	1.785	1.00	.08
Group 7	12.28	14.28	1.33	1.785	1.00	.08
Group 8	12.61	14.61	1.33	1.785	1.00	.08
Group 9	12.68	14.68	1.33	1.785	1.00	.08
Group 10	12.84	15.84	1.33	1.785	1.00	.08
Group 11	13.02	15.02	1.33	1.785	1.00	.08
Group 12	13.51	15.51	1.33	1.785	1.00	.08
Group 13	14.47	16.47	1.33	1.785	1.00	.08
Group 14	14.96	16.96	1.33	1.785	1.00	.08
Group 15	15.24	17.24	1.33	1.785	1.00	.08
Laborers:						
Heavy and Highway Construction:						
Group 1	9.72	11.72	.70	.35	.25	.04
Group 2	9.85	11.85	.70	.35	.25	.04
Group 3	9.97	11.97	.70	.35	.25	.04
Group 4	10.22	12.22	.70	.35	.25	.04
Group 5	10.72	12.72	.70	.35	.25	.04
Tunnel and Shaft Work:						
Group 1	9.87	11.87	.70	.35	.25	.04
Group 2	9.97	11.97	.70	.35	.25	.04
Group 3	10.17	12.17	.70	.35	.25	.04
Group 4	10.62	12.62	.70	.35	.25	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Entire Laborer's Schedule for Building Construction as previously issued					
Add:					
Laborers:					
Building Construction:					
Laborers	$ 9.12	.70	.35	.25	.04
Powdermen and Drillers	10.12	.70	.35	.25	.04

SUPERSEDEAS DECISION

STATE: ALABAMA — COUNTIES: *See Below
DECISION NO.: AL81-1288 — DATE: Date of Publication
Supersedes Decision No. AL79-1129 dated September 21, 1979 in 44 FR 54846
DESCRIPTION OF WORK: Heavy Construction Projects excluding Sewer and Water line construction and Drainage projects.
*Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Marengo, Monroe Washington, and Wilcox.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$11.57	.65	.50		.10
CEMENT MASONS	9.74	.40	.50		
ELECTRICIANS - Wiremen	13.57	.80	3% + .50		.05
IRONWORKERS - Structural & Reinforcing	12.04	.65	.50		.05
LABORERS:					
Zone 1: Baldwin, Clarke, Escambia, Mobile, Monroe, & Washington Counties					
Asphalt Raker, Air Tool Operator, Chain Saw Operator, Concrete Saw Operator, Vibrator Operator	6.99	.40	.45		.05
General Laborer, Hand Blade Operator, Batch Truck Dumper	6.82	.40	.45		.05
Pipelayer, Mucker, Mortar Mixer	6.94	.40	.45		.05
Powderman & Blaster	7.77	.40	.45		.05
Zone 2: Choctaw, Marengo, & Wilcox Counties					
Asphalt Raker, Air Tool Operator, Chain Saw Operator, Concrete Saw Operator, Vibrator Operator	6.14	.40	.45		.05
General Laborer, Hand Blade Operator, Batch Truck Dumper	5.97	.40	.45		.05
Pipelayer, Mucker, Mortar Mixer	6.07	.40	.45		.05
Powderman & Blaster	6.91	.40	.45		.05
PAINTERS:					
Industrial Brush	11.75	.65	.40		.01
Industrial Spray	12.50	.65	.40		.01
Spraying Epoxy	12.00	.65	.40		.01

DECISION NO.: AL81-1288 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group A	$12.09	.65	.50		.10
Group B	11.70	.65	.50		.10
Group C	10.99	.65	.50		.10
Oilers	8.58	.65	.50		.10
PLUMBERS & PIPEFITTERS	13.65	.70	1.10		.05
PILEDRIVERMEN	11.88	.65	.50		.05
TRUCK DRIVERS:					
1. Truck Drivers up to but not including 1½ tons	7.25	.40	.50		
2. Drivers 1½ tons up to but not including 5 tons	7.84	.40	.50		
3. Rec and issuing truck	8.15	.40	.50		
4. Scaleman	8.36	.40	.50		
5. Truck drivers on rated 5 tons or 6 yards and over including heavy equipment such as pole truck, miss or corning wagons, dumpsters, semi drivers, agitators, ross carriers dempsey dump euclid trucks, forklift trucks in warehouses & similar equipment such as tractors, ten wheeler, jeeps, or dump trucks, pickup trucks pulling 2 or 4 wheel trailers hauling equipment (not applicable to pulling equipment which rolls on its own wheels)	9.15	.40	.50		
6. Auto Mechanics	9.87	.40	.50		
WELDERS - Rate for Craft					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).					

POWER EQUIPMENT OPERATORS: Classification Definitions

Group A: Heavy duty mechanic, crane, shovel, derrick op. 2 or more drums, dragline, piledriver operator, hoist operator (2 or more drums), tug boat, cableways, excavators, front end loaders, backhoe, rubber tired backhoe, dredges, leverman, welders, mounted rotary drill machine, cherry picker, side boom tractors, paving machines, motor patrol, pump crete machines, gradalls Johnson mixers, hydro-lift trucks all batch plants and header house operators, panel board (redi-mix) Hydro hammer on demolition work, concrete plants, asphalt plants, helicopter pilots and concrete paving trains

Group B: Dozer scraper, turnapull, 1 drum hoist, self-propelled rollers, construction elevators, locomotive engineer, elevating grader tractor with power - control attachments, winch truck, riding, trenching and ditching machines, mixers, asphalt spreaders, drilling machines, form graders, asphalt distributors, forklift, (well point and dewatering system), subgraders, finishing machines, motorized compactors, wagmobiles, and push carts

Group C: Light plant generators, welding machines, air compressors, pumps, conveyors, motor boats under 30 feet, tow tractors, piledriver hammer, (diesel gas, air, or electric), fireman, outboard motor boat operators and brakeman

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: *See Below
DECISION NO.: AL81-1289 DATE: Date of Publication
Supersedes Decision No.: AL79-1134 dated November 9, 1979 in 44 FR 65307
DESCRIPTION OF WORK: Heavy Construction Projects
*Counties: Calhoun, Etowah, Green, Jefferson, Pickens, ST. Clair, Shelby, Sumter, Talladega, Tuscaloosa, and Walker

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Ts.
BRICKLAYERS	$9.50				
CARPENTERS:					
1.Green, Pickens, Sumter, and Tuscaloosa Cos.	9.50				.06
2.Jefferson, Shelby, Walker, and that portion of St. Clair, and Talladega Co. west of Highway 231 from the Blount Co. line south to Interstate 20. Also that portion of St. Clair and Talladega Cos. south of Interstate 20 and west of U.S. Alternate 231 south, not including the City of Talladega and that portion of Talladega Co. south, of of the City of Talladega and west and south of the Talladega National Forest.	9.97	.55	.35		.08
3.Calhoun, Etowah, and Remainder of St. Clair, and Talladega Cos.	8.16	.65	.50		.06
ELECTRICIANS	13.45	.55	3% + .40		½ of 1%
IRONWORKERS	12.35	.76	.82		.06
LABORERS:					
Zone 1: Jefferson, St. Clair, Shelby, Talladega, and Walker Cos.					
1. Asphalt Raker, Air Tool Operator, Chain Saw Oper., Concrete Saw Oper., Vibrator Oper.	6.99	.40	.45		.05
2. General Laborers, Hand Blade Oper., Batch Truck Dumper	6.82	.40	.45		.05
3. Pipelayer, Mucker, Mortar Mixer	6.94	.40	.45		.05

LABORERS: cont'd Zone 1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
4. Powderman & Blaster	$7.77	.40	.45		.05
5. Tunnel Work - -					
Tunnel Miner	7.74	.40	.45		.05
Tunnel Laborer	7.28	.40	.45		.05
Chuck Tender	7.44	.40	.45		.05
Pneumatic Concrete Gun Oper., & Nuzzleman	7.62	.40	.45		.05
Zone 2: Calhoun, Etowah, Green, Pickens, Sumter, and Tuscaloosa Counties					
1. Asphalt Raker, Air Tool Oper., Chain saw oper., Concrete Saw Oper., Vibrator Oper.,	6.33	.40	.45		.05
2. General Laborer, Hand Blade Oper., Batch Truck Dumper	6.16	.40	.45		.05
3. Pipelayer, Mucker, Mortar Mixer	6.28	.40	.45		.05
4. Powderman & Blaster	6.99	.40	.45		.05
5. Tunnel Work --					
Tunnel Miner	7.07	.40	.45		.05
Tunnel Laborer	6.62	.40	.45		.05
Chuck Tender	6.79	.40	.45		.05
Pneumatic Concrete Gun Oper., & Nuzzleman	6.96	.40	.45		.05
PLUMBERS & PIPEFITTERS	9.45	.30	.30		.05
POWER EQUIPMENT OPERATORS:					
CLASS A	11.41	.90	.50		.10
CLASS B	10.69	.90	.50		.10
CLASS C	10.15	.90	.50		.10
CLASS D	9.33	.90	.50		.10
TRUCK DRIVERS:					
Up to 1-1½ tons	6.97	.50			.03
1½ up to 3 tons	7.24	.50			.03
3 up to 5 tons	7.57	.50			.03
Off Road Truck	8.24	.50			.03

POWER EQUIPMENT OPERATORS: Classifications Definitions

CLASS A: Asphalt plant, asphalt spreader, backhoe, boat operator, (inboard), boom tractor, bulldozer, cableways, cherry picker, compressors-2, or more within 200 ft. radius, conrete plants-stationary, mixer operator, concrete pump, conveyors-2 or more up to 4, core driller-crane-derricks-draglines-deck hoist on construction barges, crane-hydro, dinky locomotive, distributors-bituminous surface, dredge operator, farm tractor with attachments (30 HP or more-which are an integral part of tractor), forklift, front end loader, gradall, headhouse operator, heavy duty, mechanic, hoist-2 drums or more, ice plant in connection with concrete, mixers-5 bags or over, motor graders, piledriver, push tractor, quarry master and rock crusher, rollers-asphalt, scraper, scrapers in tandem(operator to receive 25 ¢ per hour for each additional scraper), shovels, trenching machines and all similar equipment

CLASS B: Crawler, tractor, hoist-1drum, pumps-2 or more 4 inch and over, under 5 within 200 ft, radius, rollers (other than asphalt), winch truck, well points and other equipment used for dewatering

CLASS C: Air compressor, blade graders-pull type, farm tractor with attachments finishing machine-screed mounted self-propelled, mixers-under 5 bags

CLASS D: Outboard boats, air compressor-125 and under, conveyor-one, (1) tended by oiler, pumps-under 4 inch or under, welding machines-3 or under, oiler in-board boats, deckhand

Unlisted classifications needed for work not included within the the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: Colbert and Lauderdale

DECISION NUMBER: AL81-1284 DATE: Date of Publication

Supersedes Decision No.: AL80-1070 dated June 6, 1980 in 45 FR 38239

DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.85	.66	.85		.10
BOILERMAKERS	12.90	1.375	1.20		.04
BRICKLAYERS:					
Bricklayers, Blocklayers, and Stonemasons	12.66				
Saw Operator	12.91				
CARPENTERS:					
Carpenters, Soft Floor Layers	11.95		.35		.10
Piledrivermen	12.20		.35		.10
Millwrights	12.45		.35		.10
CEMENT MASONS:					
Cement Masons	10.40	.40			
Power Tool Operators	10.65	.40			
ELECTRICIANS:					
Electricians	13.00	.65	3%+.65		
Cable Splicers	13.25	.65	3%+.65		
ELEVATOR CONSTRUCTORS	11.68	1.195	.95	a+b	.035
IRONWORKERS	11.57	.75	.75		.08
LABORERS:					
Unskilled, Mason Tenders, Mortar Mixers & Plasterers Tenders	6.82	.40	.50		
Air Tool Operators & Pipelayers	7.02	.40	.50		
PAINTERS:					
Commercial	9.35	.40	.25		.05
Industrial	10.50	.40	.25		.05
PLASTERERS	10.69	.40			
PLUMBERS AND STEAMFITTERS	13.85	.85	1.00		.13
ROOFERS	10.25				
SHEET METAL WORKERS	12.88	.79	1.07		.09
SPRINKLER FITTERS	13.69	.95	1.40		.08

FOOTNOTES:

a. Paid Holidays: New year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

DECISION NO. AL81-1284

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.13	.60	.65		.05
GROUP B	10.59	.60	.65		.05
GROUP C	9.67	.60	.65		.05

GROUP A - Backhoe, Bulldozers, Crane, Crane Car , Central Mixing Plant, Concrete Pump, Derrick, Dragline, Dredge, Drill Elevating Grader, Finishing Machine (concrete), Forklift, Front End Loader, Grade-all, Grout Pump, Helicopter Pilot, Hoist, Locomotive Engineer, Mechanic, Motor Patrol, Mucking Mechanic, Master Pilot, Pile Driver, Post Hole Digger, Scrapper (pull type & self Prop.), Shovel, Sweeper, Tractor (spec. equip.,) Trenching Machine, Well Point & Winch Truck Operators

GROUP B - Bituminous Dist., Central Air Comp., Concrete Mixer (port.) Firemen Floating Equipment, Front End Loader, Rubber Tire, ¾ cu. yd. & under, Locomotive Brakeman, Lomotive Flagman, Locomotive Switchman, Oiler-Driver, (35 tons crane & over) Outboard Motor Boat (when used for towing), Paving Machine, Post Hole Digger Mounted on Farm Type Tractor & Walk behind type Trenching Machine Operators

GROUP C - Air Compressor (port.), Conveyor, Fireman Stationary Equipment, Oiler, Outboard Motor Boat & Pump Operators

Oiler Driver - additional $.10 per hour

All Crane, Derrick and Gantry Tower Crane Opeators Operating such Equipment with an overall height of 150 ft. including jobs - additional $.50 per hour

All Scraper Operators Operating Tandem Scrapers receive $.25 per hour additional for each addition Scraper (bowl).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld

DECISION NUMBER: CO81-5145 DATE: Date of Publication

Supersedes Decision No. CO81-5133 dated July 31, 1981, in 46 FR 39365

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	14.97	.375	1.15		.05
BRICKLAYERS; Stonemasons:					
Eagle County	12.29	.85	1.10		.06
Boulder and Grand Counties	13.65	.85	1.10		.05
Elbert, Lake and Park Counties	13.70	.85	.95		.06
Larimer County	12.29	.85	1.10		.05
Remaining Counties	12.29	.85	1.10		.06
CARPENTERS:*					
Area 1:					
Zone 1	11.065	1.00	1.00	.95	.09
Zone 2	12.45	1.00	1.00	.95	.09
Zone 3	13.83	1.00	1.00	.95	.09
Area 2:					
Zone 1	11.065	1.00	1.00	.95	.09
Zone 2	12.45	1.00	1.00	.95	.09
Zone 3	13.83	1.00	1.00	.95	.09
Area 3	11.065	1.00	1.00	.95	.09
Area 4:					
Zone 1	11.22	1.10	1.00	1.00	.10
Zone 2	11.72	1.10	1.00	1.00	.10
Zone 3	11.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.60	1.15		.13
Working with composition materials and color	12.54	.60	1.15		.13
Working on scaffold, swing stage, or temporary platform over 25'	12.29	.60	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Elbert and Park Counties:					
Electricians	12.75	.72	3%+.65		.015
Remaining Counties:					
Electricians	16.10	.85	3%+1.25		3/10%
Cable Splicers	16.35	.85	3%+1.25		3/10%

*See AREA and ZONE Descriptions Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$14.88	$1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LATHERS	13.44				.01
MARBLE SETTERS:					
Elbert, Lake, and Park Counties	12.53	.85	.70		
Remaining Counties	15.53	1.30	1.45		.04
MILLWRIGHTS	12.66	1.00	.85		.14
PAINTERS:					
*Park County (southern half)					
Brush, Roller, Taper, hand texture	11.54	.95	.70		.04
Steel and Paperhanger	12.04	.95	.70		.04
Spray	12.29	.95	.70		.04
Remaining Counties including northern half of Park County:*					
Brush and Roller; Hardwood Finisher	15.01	.95	1.15		.08
Drywall Finisher (hand)	15.26	.95	1.15		.08
Drywall Finisher (tool); Spray; Swing Stage and Chair; Sandblast (exterior); Paperhanger	15.61	.95	1.15		.08
Sandblast (interior); Steeplejack	16.93	.95	1.15		.08
PLASTERERS	13.44				.01
PLUMBERS; Steamfitters:					
Southern portions of Douglas, Elbert, and Park Counties*	12.90	.85	1.15	1.60	.10
Boulder County	14.40	1.00	1.25	1.00	.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: Steamfitters: (Cont'd):					
Remaining Counties (including northern portions of Douglas, Elbert, and Park Counties)	$14.47	$1.00	$1.25	$1.00	.08
ROOFERS:					
Eagle County and southern portions of Lake, Jefferson, Park, Douglas, and Elbert Counties**	11.41	.59	.40		
Remaining Counties including northern portions of Lake, Park, Jefferson, Douglas, and Elbert Counties	13.32	.85	.50		.08
SHEET METAL WORKERS	14.96	3%+.90	1.51		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	15.53	1.30	1.45		.04
TILE LAYERS:					
Elbert, Lake, and Park Counties	12.53	.85	.70		
Remaining Counties	15.53	1.20	1.30		.04
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	

*Park County dividing Line: Line from the S.W. corner of Jefferson County to the S.E. corner of Lake County

** Area south of Lake County to a point 2 miles north of the City of Leadville to a point 1/2 mile north of the City of Limon at the west border of Lincoln County

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for over 5 years service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA and ZONE DESCRIPTIONS

CARPENTERS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Grand, Gilpin, and Jefferson Counties; Park County (northern area):

(a) Denver Metropolitan Area including Louisville, Golden, Boulder, and Longmont basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 2: Morgan and Weld Counties:

(b) Denver Northeastern Area of Colorado including Greeley, Loveland, and Fort Morgan basing points:

Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over

Area 3: Larimer County (S.E. portion within Loveland basing point, Zone 1)

Area 4: Larimer (Remainder of County); Eagle, Lake, and Park Counties (south 40 miles); Summit County:

Zone 1: 0 to 40 miles from Post Office in Leadville or Fort Collins
Zone 2: 40 to 75 miles from Post Office in Leadville or Fort Collins
Zone 3: All work outside of the 75 mile radius from Post Office in Leadville or Fort Collins

LABORERS:	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.25	$6.75	.84	.70	.50	.05
Group 2	9.40	9.90	.84	.70	.50	.05
Group 3	9.68	10.18	.84	.70	.50	.05
Group 4	10.20	10.70	.84	.70	.50	.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface. Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels. Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 4: Pipelayers on Building Construction; Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.05	$11.80	.93	1.10	.55	.12
Group 2	11.40	12.15	.93	1.10	.55	.12
Group 3	11.75	12.50	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.20	12.95	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises):						
Group 1	11.20	11.75	.93	1.10	.55	.12
Group 2	11.55	12.30	.93	1.10	.55	.12
Group 3	11.65	12.40	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.45	13.20	.93	1.10	.55	.12
Group 7	12.20	12.95	.93	1.10	.55	.12

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane: Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator, Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a)(1)(ii)).

ZONE DESCRIPTIONS

LABORERS

CITIES within ZONES 1 and 2:

Boulder	Denver	Dillon
Eagle	Golden	Fort Collins
Fort Morgan	Leadville	Granby
Greeley	Littleton	Vail

ZONE 1 - That area encompassed by 0 to 30 driving miles from the Main Post Office
ZONE 2 - That area encompassed by 30 or more driving miles from the Main Post Office

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:

Boulder	Denver	Douglas
Clear Creek	Gilpin	Jefferson
Larimer	Morgan	Weld

B. Counties entirely within Zone 2:

Grand Lake Park Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 8th Guide Meridian West; and all of Eagle County lying West of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59 and R60W of the 8th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NO. CO81-5146 DATE: Date of Publication
Supersedes Decision CO81-5134 dated July 31, 1981, in 46 FR 39370
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	13.87	1.375	1.15		.05
BRICKLAYERS; Stonemasons	13.70	.85	.95		.06
CARPENTERS:					
Zone 1: 0-40 miles from Post Office in Colorado Springs	11.22	1.10	1.00	1.00	.10
Zone 2: 40-75 miles from Post Office in Colorado Springs	11.72	1.10	1.00	1.00	.10
Zone 3: 75 miles and over	11.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS	15.45	1.00	3%+1.00		.015
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	15.32	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LATHERS	12.64				.01
MARBLE SETTERS	12.53	.85	.70		
MILLWRIGHTS	12.66	1.00	.85		.14
PAINTERS:					
Brush and Roller; Tapers, hand texture	11.54	.95	.70		.04
Paperhangers; Steel Brush	12.04	.95	.70		.04
Spray Painters	12.29	.95	.70		.04
Steel, Spray	12.79	.95	.70		.04
PLASTERERS	13.44				.01
PLUMBERS; Pipefitters	14.05	1.00	1.25	1.60	.10
ROOFERS	11.41	.59	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$14.96	3%+.90	$1.51		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	15.53	1.30	1.45		.04
TILE SETTERS	12.53	.85	.70		
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day
b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 6.25	$6.75	.84	.70	.50	.05
Group 2	9.40	9.90	.84	.70	.50	.05
Group 3	9.68	10.18	.84	.70	.50	.05
Group 4	10.20	10.70	.84	.70	.50	.05

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 4: Pipelayers on Building Construction.
Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.
Tender, Mason and Plaster

ZONE DESCRIPTIONS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in Colorado Springs
ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office in Colorado Springs

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):	ZONE 1	ZONE 2				
Group 1	$11.05	$11.80	.93	$1.10	.55	.12
Group 2	11.40	12.15	.93	1.10	.55	.12
Group 3	11.75	12.50	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.20	12.95	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.20	11.75	.93	1.10	.55	.12
Group 2	11.55	12.30	.93	1.10	.55	.12
Group 3	11.65	12.40	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.45	13.20	.93	1.10	.55	.12
Group 7	12.20	12.95	.93	1.10	.55	.12
See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications						

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts, and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.36	.94	.70	.40	
Group 2	9.46	.94	.70	.40	
Group 3	9.56	.94	.70	.40	
Group 4	9.60	.94	.70	.40	
Group 5	9.66	.94	.70	.40	
Group 6	9.71	.94	.70	.40	
Group 7	9.76	.94	.70	.40	
Group 8	9.81	.94	.70	.40	
Group 9	9.91	.94	.70	.40	
Group 10	9.96	.94	.70	.40	
Group 11	10.06	.94	.70	.40	
Group 12	10.21	.94	.70	.40	
Group 13	10.26	.94	.70	.40	
Group 14	10.36	.94	.70	.40	
Group 15	10.46	.94	.70	.40	
Group 16	10.56	.94	.70	.40	
Group 17	10.66	.94	.70	.40	
Group 18	10.86	.94	.70	.40	

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab opeeated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Delta, Garfield, Gunnison, Mesa, Montrose, and Pitkin

DECISION NUMBER: CO81-5147 DATE: Date of Publication

Supersedes Decision No. CO81-5135 dated July 31, 1981, in 46 FR 39374

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	13.87	1.375	1.15		.05
BRICKLAYERS; Stonemasons:					
Pitkin County	12.29	.85	1.10		.06
Remaining Counties	11.90	.85	1.10		.05
CARPENTERS:					
Post Office basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose:					
Zone 1: 0-40 miles from nearest basing point	11.22	1.10	1.00	1.00	.10
Zone 2: 40-75 miles from nearest basing point	11.72	1.10	1.00	1.00	.10
Zone 3: 75 miles and over from nearest basing point	11.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.29	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Electricians	14.85	1.00	3%+.50		1%
Cable Splicers	15.10	1.00	3%+.50		1%
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPERS (	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental and Reinforcing	12.35	1.04	1.25		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Delta, Gunnison, and Montrose Counties	$11.94				.01
Garfield, Mesa, and Pitkin Counties	13.44				.01
MARBLE and TILE SETTERS; TERRAZZO WORKERS	15.53	1.30	1.45		.04
MILLWRIGHTS	12.66	1.00	.85		.14
PAINTERS:					
Brush, Roller and Drywall Finishers	15.01	.95	1.15		.08
Paperhangers, Spray, Swing Stage	15.61	.95	1.15		.08
PLASTERERS	13.44				.01
PLUMBERS	12.85	.85	1.15		.10
ROOFERS:					
Garfield, Mesa, and Pitkin Counties	13.32	.85	.50		.08
Remainder of Counties	11.41	.59	.40		
SHEET METAL WORKERS	14.96	3%+.90	1.51		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day.
b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 6.25	$6.75	.84	.70	.50	.05
Group 2	9.40	9.90	.84	.70	.50	.05
Group 3	9.68	10.18	.84	.70	.50	.05
Group 4	10.20	10.70	.84	.70	.50	.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 4: Pipelayers on Building Construction.
Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.
Tender, Mason and Plaster

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises)	ZONE 1	ZONE 2				
Group 1	$11.05	$11.80	.93	$1.10	.55	.12
Group 2	11.40	12.15	.93	1.10	.55	.12
Group 3	11.75	12.50	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.20	12.95	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.20	11.75	.93	1.10	.55	.12
Group 2	11.55	12.30	.93	1.10	.55	.12
Group 3	11.65	12.40	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.45	13.20	.93	1.10	.55	.12
Group 7	12.20	12.95	.93	1.10	.55	.12
See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications						

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, undergeoung; Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

ZONE DESCRIPTIONS

LABORERS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in each of the following Cities:

Aspen Glenwood Springs Grand Junction
Gunnison Montrose Naturita
Rifle

ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office of the Cities listed in Zone 1

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:
Delta Garfield Mesa

B. Counties entirely within Zone 2:
Gunnison Pitkin

C. Legal description of the portion of Montrose County which is included within Zone 1, as follows:
All of Montrose County lying north of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said part lying East of said Township Line of the New Mexico Principal Meridian

D. Legal description of the portion of Montrose County which is included within Zone 2, as follows:
All of Montrose County except that part lying north of the North Line of Ouray County and said North Line extended West of said Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Las Animas, Otero and Pueblo

DECISION NUMBER: CO81-5148 DATE: Date of Publication

Supersedes Decision No. CO81-5137 dated July 31, 1981, in 46 FR 39379

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	13.87	1.375	1.15		.05
BRICKLAYERS	13.57	.85	1.10		.07
CARPENTERS	11.22	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.14	.59	1.15		.13
Working with composition material and color	12.64	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.39	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS:					
Contract over $100,000.00:					
Electricians;					
Technicians	15.49	1.00	3%+1.00		1½%
Cable Splicers	17.04	1.00	3%+1.00		1½%
Contract under $100,000.00:					
Electricians;					
Technicisns	11.50	1.00	3%+.80		1½%
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural; Ornamental and Reinforcing	12.35	1.04	1.25		.12
LATHERS	10.80				.01
MARBLE and TILE SETTERS' TERRAZZO WORKERS	15.53	1.30	1.45		.04
MILLWRIGHTS	12.66	1.00	.85		.14

DECISION NO. CO81-5148 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller Painters; Tapers and Hand Texture Men:					
Zone 1: 0-20 miles	$11.54	.95	.70		.04
Zone 2: 20-35 miles	12.54	.95	.70		.04
Zone 3: 35 miles and over	13.29	.95	.70		.04
Tapers using Automatic tools, Spray Painters, and Sandblasters:					
Zone 1: 0-20 miles	12.29	.95	.70		.04
Zone 2: 20-35 miles	13.29	.95	.70		.04
Zone 3: 35 miles and over	14.07	.95	.70		.04
Paper and Vinyl Hangers; Steel Brush Painters:					
Zone 1: 0-20 miles	12.04	.95	.70		.04
Zone 2: 20-35 miles	13.04	.95	.70		.04
Zone 3: 35 miles and over	13.82	.95	.70		.04
Steel Spray Painters and Sandblasters:					
Zone 1: 0-20 miles	12.79	.95	.70		.04
Zone 2: 20-35 miles	13.79	.95	.70		.04
Zone 3: 35 miles and over	14.57	.95	.70		.04
PLASTERERS	13.44				.01
PLUMBERS:					
Zone 1: 0 to 15 miles from Post Office	15.22	1.00	1.25		.10
Zone 2: 15 to 20 miles from Post Office	15.79	1.00	1.25		.10
Zone 3: 20 to 40 miles from Post Office	16.22	1.00	1.25		.10
Zone 4: 40 miles and over from Post Office	17.245	1.00	1.25		.10
ROOFERS	11.41	.59	.40		.17
SHEET METAL WORKERS	14.96	3%+.90	1.51		.13
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	1.3
SPRINKLER FITTERS	15.31	.95	1.40		.08
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Grinders	10.25	1.20	1.30	.50	

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F. plus the Friday after Thanksgiving Day

b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 6.25	$6.75	.84	.70	.50	.05
Group 2	9.40	9.90	.84	.70	.50	.05
Group 3	9.68	10.18	.84	.70	.50	.05
Group 4	10.20	10.70	.84	.70	.50	.05

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 4: Pipelayers on Building Construction.
Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work,
Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
(Other than for work in Tunnels, Shafts, and Raises)			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$11.05	$11.80	.93	$1.10	.55	.12
Group 2	11.40	12.15	.93	1.10	.55	.12
Group 3	11.75	12.50	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.20	12.95	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.20	11.75	.93	1.10	.55	.12
Group 2	11.55	12.30	.93	1.10	.55	.12
Group 3	11.65	12.40	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.45	13.20	.93	1.10	.55	.12
Group 7	12.20	12.95	.93	1.10	.55	.12
See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications						

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

ZONE DESCRIPTIONS

LABORERS

ZONE 1: that area encompassed by 0 to 30 driving miles from the Main Post Office in each of the following Cities:

Pueblo La Junta Trinidad

ZONE 2: that area encompassed by 30 or more driving miles from the Main Post Office in the Cities listed in Zone 1

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS

A. Counties entirely within Zone 1:
Otero Pueblo

B. Portions of Las Animas County which are included within Zone 1, as follows:
All of Las Animas County lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West

C. Portions of Las Animas County which are included within Zone 2, as follows:
All of Las Animas County lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Statewide
DECISION NUMBER: CO81-5149 DATE: Date of Publication
Supersedes Decision No. CO80-5126 dated September 5, 1980, in 45 FR 59095
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:*					
Carpenters:					
Zone 1	$10.52	$1.00	$1.00	.95	.07
Zone 2	11.02	1.00	1.00	.95	.07
Underground Carpenters:					
Zone 1	10.72	1.00	1.00	.95	.07
Zone 2	11.22	1.00	1.00	.95	.07
Working on creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½HP saw at job site	10.82	1.00	1.00	.95	.07
High work 35' above ground or above permanent floor or deck	10.87	1.00	1.00	.95	.07
CEMENT MASONS:*					
Zone 1	10.76	.59	1.25	.30	.13
Zone 2	11.26	.59	1.25	.30	.13
ELECTRICIANS:*					
Area 1:					
Electricians	14.25	.70	3%+1.25		3/10%
Cable Splicers	14.50	.70	3%+1.25		3/10%
Area 2:					
Electricians	14.00	.75	3%+.25		1%
Cable Splicers	14.25	.75	3%+.25		1%
Area 3:					
Zone 1:					
Electricians	13.64	.72	3%+1.00		1½%
Cable Splicers	15.00	.72	3%+1.00		1½%
Zone 2:					
Electricians	14.47	.72	3%+1.00		1½%
Cable Splicers	15.83	.72	3%+1.00		1½%
Zone 3:					
Electricians	15.02	.72	3%+1.00		1½%
Cable Splicers	16.38	.72	3%+1.00		1½%
Zone 4:					
Electricians	15.71	.72	3%+1.00		1½%
Cable Splicers	17.07	.72	3%+1.00		1½%

*See AREA and ZONE Descriptions - Pages 4, 5, and 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 3: (Cont'd)					
Zone 5:					
Electricians	$16.39	.72	3%+1.00		1½%
Cable Splicers	17.75	.72	3%+1.00		1½%
Electricians on electrical contracts less than $20,000 in Zones 4 and 5	11.00	.72	3%+1.00		1½%
Area 4:					
Electricians	13.90	.75	3%+.65		.015
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	12.35	1.04	1.25		.12
LINE CONSTRUCTION:					
Cable Splicers	15.58	.45	3%+.50		3/4%
Journeyman Lineman; Cableman	14.56	.45	3%+.50		3/4%
Journeyman Lineman	14.49	.45	3%+.50		3/4%
Line Equipment Maintenance Man	12.31	.45	3%+.50		3/4%
Line Equipment Operator, Class 1:					
Crawler Equipment, Wire equipment pullers, Tensioners, Cranes, over 8 tons, Heavy Pole Trucks (such as diesel, twin screws), All Bucket Trucks - 75 ft. reach and over and Backhoes	12.31	.45	3%+.50		3/4%
Line Equipment Operators, Class 2:					
Trenchers under 4 ft. depth, Hydro Cranes, under 8 tons, Bobcats, Trucks under 3 tons, C.T.M. classification	10.90	.45	3%+.50		3/4%
Groundman	10.12	.45	3%+.50		3/4%

*See AREA and ZONE Descriptions - Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush	$12.11	.75	$1.15		.07
Spray, Swing Stage	12.71	.75	1.15		.07
Area 2:					
Brush	9.57	.75	.50		.04
Steel	10.07	.75	.50		.04
Spray	10.57	.75	.50		.04
Steel Spray	11.07	.75	.50		.04
Area 3:					
Brush	10.44	.75	.50		.04
Spray	11.19	.75	.50		.04
Steel	10.94	.75	.50		.04
Steel Spray	11.69	.75	.50		.04

*See AREA Descriptions - Page 6

ZONE DESCRIPTIONS

CARPENTERS:

Counties entirely within Zone 1:

Adams	Crowley	Gilpin	Morgan
Alamosa	Custer	Huerfano	Otero
Arapahoe	Delta	Jefferson	Phillips
Archuleta	Denver	La Plata	Prowers
Bent	Douglas	Lake	Pueblo
Boulder	Eagle	Larimer	Rio Grande
Chaffee	El Paso	Las Animas	Sedgwick
Clear Creek	Elbert	Logan	Teller
Conejos	Fremont	Mesa	Weld
Costilla	Garfield	Montezuma	

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Routt
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lincoln	Pitkin	Summit
Gunnison	Mineral	Rio Blanco	Yuma
Hinsdale			

Legal description of the portions of Montrose, Saguache, and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian and the Eastern portion of Saguache County; from Highway #285 to the Town of Saguache, and Highway #114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway #285 to town of Saguache and Highway #114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude Base Line.

ZONE DESCRIPTIONS

CEMENT MASONS:

Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying North of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North Line between R11W and R21W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld, and Yuma Counties

Area 2: Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, and San Miguel Counties

Area 3: Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, and Saguache Counties:
Zone 1: Within 12 miles from Pueblo Main Post Office
Zone 2: 12 to 20 miles from Pueblo Main Post Office
Zone 3: 20 to 30 miles from Pueblo Main Post Office
Zone 4: 32 to 50 miles from Pueblo Main Post Office
Zone 5: 50 miles and over from Pueblo Main Post Office

Area 4: Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties

PAINTERS:

Area 1: Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan; Park County (northern half); Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties

Area 2: Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers, and Pueblo Counties

Area 3: Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray; Park County (southern half); Rio Grande, Saguache, San Juan, San Miguel, and Teller Counties

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$9.40	$9.90	.84	.70	.50	.05
Group 2	9.50	10.00	.84	.70	.50	.05
Group 3	9.80	10.30	.84	.70	.50	.05
Group 4	9.95	10.45	.84	.70	.50	.05
Group 5	10.15	10.65	.84	.70	.50	.05
Group 6	10.20	10.70	.84	.70	.50	.05
(Tunnels)						
Group 1	9.40	9.90	.84	.70	.50	.05
Group 2	10.30	10.880	.84	.70	.50	.05
Group 3	10.40	10.90	.84	.70	.50	.05
Group 4	10.48	10.98	.84	.70	.50	.05
Group 5	10.55	11.05	.84	.70	.50	.05
Group 6	11.45	11.95	.84	.70	.50	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	10.40	10.90	.84	.70	.50	.05
Group 2	10.55	11.05	.84	.70	.50	.05
Group 3	10.65	11.15	.84	.70	.50	.05
Group 4	10.93	11.43	.84	.70	.50	.05
Group 5	10.98	11.48	.84	.70	.50	.05
Group 6	11.58	12.08	.84	.70	.50	.05

Zone 1: The area encompassed by 15 driving miles from the Main Post Office at Craig, Steamboat Springs, and Meeker. Also, included are all other Counties not outlined in Zone 2.

Zone 2: The Counties of Jackson, Moffat, Rio Blanco and Routt.

LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattresses; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core, and Diamond Drill Tenders, Powdermen Tenders; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical tool Operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torch on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than Gang Saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Tender; Sand Blaster, Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frost proofing; Any Laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal Laws); Gunniting and Shotcrete Tenders; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or Stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in Trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphones, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; wiping of Joint Concrete Pipe, inside and out; Labor applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on trunk pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydrobroom

Group 4: Wagon Drills and Air Tracks; Jackhammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal Laws; Pugs and Galleys in Dams

Group 6: Mason Tenders, Brick and Plaster

(TUNNELS)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Tenders on Shotcrete, Gunniting and Sand Blasting; Tenders, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Tender, applying of concrete processing materials

Group 6: Collapsible Form Movers and Setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete Placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Tenders in Shotcrete Gunniting and Sand Blasting; Tenders on Core and Diamond Drills; Pot Tenders; Cement Finisher Tenders, applying concrete processing materials

Group 4: Diamond and Core Drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 5: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal Laws

Group 6: Collapsible Form Movers and Setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel) support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Men, internal and external

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises)	ZONE 1	ZONE 2				
Group 1	$11.05	$11.80	.93	$1.10	.55	.12
Group 2	11.40	12.15	.93	1.10	.55	.12
Group 3	11.75	12.50	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.20	12.95	.93	1.10	.55	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.20	11.75	.93	1.10	.55	.12
Group 2	11.55	12.30	.93	1.10	.55	.12
Group 3	11.65	12.40	.93	1.10	.55	.12
Group 4	11.90	12.65	.93	1.10	.55	.12
Group 5	12.05	12.80	.93	1.10	.55	.12
Group 6	12.45	13.20	.93	1.10	.55	.12
Group 7	12.20	12.95	.93	1.10	.55	.12
See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications						

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments Rodman, Chainman, Grade Checker; Compressors, 360 C.FM. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts, and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.36	$9.86	.94	.70	.40	
Group 2	9.46	9.96	.94	.70	.40	
Group 3	9.56	10.06	.94	.70	.40	
Group 4	9.61	10.11	.94	.70	.40	
Group 5	9.66	10.16	.94	.70	.40	
Group 6	9.71	10.21	.94	.70	.40	
Group 7	9.76	10.26	.94	.70	.40	
Group 8	9.81	10.31	.94	.70	.40	
Group 9	9.91	10.41	.94	.70	.40	
Group 10	9.96	10.46	.94	.70	.40	
Group 11	10.06	10.56	.94	.70	.40	
Group 12	10.21	10.71	.94	.70	.40	
Group 13	10.26	10.76	.94	.70	.40	
Group 14	10.36	10.86	.94	.70	.40	
Group 15	10.46	10.96	.94	.70	.40	
Group 16	10.56	11.06	.94	.70	.40	
Group 17	10.66	11.16	.94	.70	.40	
Group 18	10.86	11.36	.94	.70	.40	

*See Zone Descriptions following Truck Drivers' classifications

TRUCK DRIVERS

Group 1: Pickups; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Washers; Greasermen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem Axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Pork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

ZONE DESCRIPTIONS

POWER EQUIPMENT OPERATORS and TRUCK DRIVERS:

Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying west of the Township Line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township Line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying east of said Township Line of the New Mexico Principal Meridian and all of Washington County lying north of the 40°00'00" Latitude Base Line

Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose, and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert, and Las Animas Counties lying east of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West, and all of Montrose County except that part lying Northerly of the North Line between R11W and R12W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Kentucky COUNTIES: See below
DECISION NUMBER: KY81-1283 DATE: Date of Publication
Supersedes Decision Number KY80-1106, dated October 17 1980 in 45 FR 69142
DESCRIPTION OF WORK: HEAVY AND HIGHWAY CONSTRUCTION PROJECTS
Allen, Ballard, Butler, Caldwell, Calloway, Carlisle Christian, Crittenden Daviess, Edmondson, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, McLean, Marshall, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren & Webster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$11.59	.60	.40		
Carpenters					
Heavy	12.20	.75	.55		.05
Highway	11.30	.75	.55		.05
Cement Masons	12.45	.90	.40		.05
Electricians	13.75	.55	13%		% of 1%
Ironworkers	15.90	.55	1.05		.045
Millwrights					
Heavy	12.95	.75	.55		.05
Highway	12.05	.75	.55		.05
Painters					
Brush & Roller	12.30	.70			
Sandblast & Powertools	12.85	.70			
Bridge	13.30	.70			
Piledrivermen					
Heavy	12.45	.75	.55		.05
Highway	11.55	.75	.55		.05
Plumbers & Pipefitters	16.00	.75	1.10		.08
Welders - Rate for craft					

KY81-1283 cont.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.72	.70	.70		
Group 2	9.97	.70	.70		
Group 3	10.02	.70	.70		
Group 4	10.62	.70	.70		

Group 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & seeding, planters & tree-trimmers, sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, rip-rap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill tender, & all hand digging & hand back filling

Group 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia Buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine operator & deckhand scow man, burner & welder

Group 3 - Powderman & blasters, side rail setters - including rail paved ditches, tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator

Group 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air)

KY81-1283 cont.

POWER EQUIPMENT OPERATORS Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$13.22	.65	1.20		.08
Class B	10.39	.65	1.20		.08
Class C	9.59	.65	1.20		.08
Class D	13.72	.65	1.20		.08

NOTE: Railroad and Highway bridges across commercially navigable rivers: i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall recieve the HEAVY rate of pay

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge, engineer, elevator (used for hoisting building materials), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, Le ourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, piledriver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader

Class B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flex-plane, fireman, boom type tamping machine truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic tender, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted)

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted)

Class D - Operators on cranes with booms one hundred fifty feet (150') & over including jib

KY81-1283 cont.

POWER EQUIPMENT OPERATORS
Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$11.72	.65	1.20		.08
Class B	9.30	.65	1.20		.08
Class C	9.68	.65	1.20		.08
Class D	9.04	.65	1.20		.08

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching & trenching machine, dragline, elevator (regardless of ownership when used for hoisting any building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" & over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader, tailboom & dredge engineer

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator, compactor, self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair & road widening trencher, joint sealing machine, rotary drill (under 5"), throttlevalve man, tugger, well points, flexplane, fireman, & hoist (one drum)

Class C - Greaser on grease facilities servicing heavy equipment

Class D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand oiler, & hydraulic post driver

KY81-1283 cont.

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Driver - single axle dump, flat bed trucks, semi-trailer or pole trailer when used to pull building materials or equipment, dump truck tandem axle, driver of distributors, drivers on mixed trucks (all types)	$10.93		a		
Driver - Euclid & other heavy earth moving equipment & low boy - winch truck & A-Frame truck, when used in transporting materials & Ross carrier, fork lift truck when used to transport building materials, driver on pavement breakers	10.94		a		
Truck Mechanic	10.08		a		
Truck Tender, mobile batch truck helper	9.80		a		
Greaser, tire changer, & mechanic helper	9.85		a		

FOOTNOTES

a. Pension is $51.00 per week - applies to employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer

UNLISTED CLASSIFICATIONS needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))

SUPERSEDEAS DECISION

STATE: Massachusetts

COUNTIES: Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk

DECISION NUMBER: MA81-3054 DATE: Date of Publication

Supersedes Decision No. MA80-3064 dated October 31, 1980, in 45 FR 72442

DESCRIPTION OF WORK: Building Projects (including Residential), Heavy and Highway Projects and Marine Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
BARNSTABLE CO. (Barnstable, Borne, Falmouth, Mashpee, and Sandwich); NORFOLK CO. (Bellingham, Franklin, Plainville and Wrentham); PLYMOUTH CO. (Lakeville, Mattapoisett, Middleboro, Rochester and Wareham); BRISTOL CO. (all except Easton); Dukes; Nantucket	13.18	1.45	1.63		
SUFFOLK, MIDDLESEX, ESSEX COUNTIES: BARNSTABLE (Remainder of County); NORFOLK (Remainder of Co.): PLYMOUTH (Remainder of Co.); BRISTOL (EASTON)	15.91	1.50	1.20		.05
BOILERMEKERS	14.63	1.275	10%		.03
BRICKLAYERS: Stone Masons, Plasterers, Cement Masons (except Suffolk, Essex, Middlesex, and Brookline and Milton in Norfolk Co.), Pointers, Caulkers, and Cleaners:					
SUFFOLK CO.; MIDDLESEX (Arlington, Cambridge, Everett, Malden, Melford, Melrose and Somerville); NORFOLK (Brookline and Milton)(except plasterers)	11.55	.85	1.40		.12
Residential	9.24	.85	1.40		.12
Veneer Plastering	9.24	.85	1.40		.12
NORFOLK (Avon, Holbrook, Randolph and Stoughton); PLYMOUTH (Aington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Norwell (except plasterers) Rockland, W. Bridgewater & Whitman);					
BRISTOL CO. (Easton, N & S Easton)	11.80	.85	1.15		.09
Residential	9.44	.85	1.15		.10
Veneer Plastering	9.44	.85	1.15		.09
DUKES; NANTUCKET; NORFOLK (Bellingham, Canton, Dedham, Foxboro, Franklin Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood and Wrentham); PLYMOUTH CO. (Lakeville only); BRISTOL (Attleboro, N. Attleboro, Mansfield, Raynham, Barrowsville, Taunton, Berkley, North Dighton, Rehoboth, Seebonk)	11.60	1.40	.80		.09
Residential	9.28	1.40	.80		.10
Veneer Plastering	9.28	1.40	.80		.09
MIDDLESEX (Reading, N. Reading, Wakefield); ESSEX CO.	11.85	.70	1.25		.09
Residential	9.48	.70	1.25		.10
Veneer Plastering	9.48	.70	1.25		.09
MIDDLESEX (Belmont, Burlington, Concore, Lexington, Lincoln, Stoneham Sudbury, Waltham, Watertown, Wayland, Eston, Winchester & Woburn	11.65	.75	1.40		.09
Residential	9.64	.75	1.00		.09
Veneer Plastering	9.64	.75	1.00		.09
MIDDLESEX (Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend,					

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tyngsboro, West Acton, Westford, & Wilmington	12.20	.90	.70		.09
Residential	9.76	.90	.70		.09
Veneer Plasterers	9.76	.90	.70		.09
BARNSTABLE CO.; PLYMOUTH (Marion, Mattapoisett, Rochester, and Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. & S. Dartmouth Somerset, Swansea, Westport)	11.60	1.20	1.00		.09
Residential	9.28	1.20	1.00		.09
Veneer Plastering	9.28	1.20	1.00		.09
MIDDLESEX (Ashland, Farmington, Holliston, Hopkington, Hudson, Sherborn, Stow) NORFOLK (Medfield, Medway, Millis)	11.60	1.20	1.00		.09
Residential	9.28	1.20	1.00		.09
Veneer Plastering	9.28	1.20	1.00		.09
MIDDLESEX (Newton only); NORFOLK (Dover, Needham, Wellesley)	11.75	.65	1.40		.12
NORFOLK (Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth, Weymouth); PLYMOUTH (Hingham, Hull, Scituate, and the Islands of Quincy)	11.70	1.10	1.00		.09
Residential	9.36	1.10	1.00		.09
Veneer Plastering	9.36	1.10	1.00		.09

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: Soft Floor Layers					
MIDDLESEX (Ashby, Ayer, Lunenburg, Shirley, Lancaster, Harvard, Groton, Pepperell, Townsend, W. Groton, and W. Townsend	12.50	.75	1.00		.07
ESSEX (Methuen, Lawrence, Andover, N. Andover)	12.10	1.00	1.00		.05
ESSEX (Ipswich, Essex, Gloucester, Rockport, Topsfield, Hamilton, Wenham, Middleton, Danvers, Beverly, Manchester, Peabody, Salem, Marblehead)	11.50	1.00	1.00		.03
SUFFOLK, MIDDLESEX (Remainder of County); Norfolk (all except Avon, Holbrook, Randolph and Stoughton); ESSEX (Remainder of County); PLYMOUTH (Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland and Scituate); Bristol (Attleboro, N. Attleboro, & Seekonk)	12.25	1.00	1.00		07
BARNSTABLE; NORFOLK (Avon, Holbook, Randolph and Stoughton); PLYMOUTH (Remainder of Co.); BRISTOL (Remainder of County); DUKES; NANTUCKET	12.83	.70	1.15		.07
CEMENT MASONS: SUFFOLK; MIDDLESEX (Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester and Woburn); NORFOLK (Brookline and Milton)	12.15	1.15	.60		.20

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MIDDLESEX (Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford, Carlisle)	10.40	.90	.70		.02
MIDDLESEX (Ashby, Ayer, Boxboro, Groton, N. Acton, Pepperell, Shirley, S. Acton, Townsend)	12.20	.90	.70		.10
MIDDLESEX (Ashland, Framingham, Holliston, Hopkinton, Hudson, Marlboro, Maynard, Natick, Sherborne, and Stow	11.60	1.20	1.00		.09
MIDDLESEX (Newton only)	11.75	.65	1.40		.12
MIDDLESEX (Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland, Weston)	11.65	.75	1.40		.09
MIDDLESEX (Reading, N. Reading); ESSEX (Andover, Amesbury, Boxford; Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury)	11.69	.70	.75		
ESSEX (Remainder of County)	11.85	.70	1.25		.09
ELECTRICIANS:					
MIDDLESEX (Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, Wilmington)	13.60	1.15	1.40+3%		.02
MIDDLESEX (Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, Townsend)	13.20	.75	1.35+3%		.02
MIDDLESEX (Ashland, Hopkinton, Hudson, Marlboro and Stow)	14.28	8%	.94+3%		.01

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SUFFOLK CO.; MIDDLESEX (Remainder of County): NORFOLK (all except Avon, Holbrook, Randolph, Stoughton and Plainville); ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); PLYMOUTH (Hingham, Hull)	16.68	1.05	1.80+3%		.10
BARNSTABLE CO.; PLYMOUTH (Mattapoiset, Rochester, Wareham); BRISTOL COUNTY (Acusnet, Dartmouth, Fairhaven, New Bedford, N. & S. Dartmouth); DUKES; NANTUCKET	12.40	1.30	1.35+3%		f
BRISTOL (Fall River, Freetown, Seekonk, Somerset, Swansea, Westport	11.30	7%	1.00+3%	6%	½%
BRISTOL (Attleboro, N. Attleboro); NORFOLK (Plainville)	13.85	.73	2.05+3%		.02
BRISTOL (Mansfield, Norton, Taunton, Raynham, Rehoboth, Dighton, Berkley) PLYMOUTH (Lakeville, Middleboro)	13.50	1.00	1.00+3%		1/10of1%
Residential	10.25	1.00	1.00+3%		1/10of1%
NORFOLK (Avon, Holbrook, Randolph, Stoughton); PLYMOUTH (Remainder of County); BRISTOL (Easton) Electricial Contracts over $75,000	14.58	1.02	1.02+3%	1.00	½ of 1%
Electrical Contracts over $75,000	10.94	.77	.77+3%	1.00	½ of 1%
ESSEX (Andover, Lawrence, Methuen, N. Andover, Salisbury, W. Newbury, Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley	12.37	1.00	.75+3%		.02

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ESSEX (Remainder of County)					
Contracts over $30,000	12.65	1.04	1.56+3%		.05
Contracts $30,000 or less	11.50	1.04	1.56+3%		.05
ELEVATOR CONSTRUCTORS	13.88	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	9.72	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS* PROBATIONARY HELPERS	6.94				
GLAZIERS:					
SUFFOLK; MIDDLESEX; NORFOLK; ESSEX; PLYMOUTH (all except Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester, Wareham); DUKES; NANTUCKET	14.70	.92	1.19		.03
BARNSTABLE; PLYMOUTH (Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester, Wareham); BRISTOL CO.	12.09	.62	1.60		.01
IRONWORKERS:					
BRISTOL (except Easton); BARSTABLE; PLYMOUTH (Lakeville, Middleboro, Rochester, Wareham, Marion, Mattapoisett); NORFOLK (plainville); DUKES NANTUCKET	12.13	1.15	2.55		.05
SUFFOLK; NORFOLK (Remainder of Co.); ESSEX (Manchester Beverly, Peabody, Salem, Lynn, Lynnfield, Saugus, Swampscott, Marblehead, Nahant); PLYMOUTH (Remainder of County); BRISTOL (Easton, N. Easton); MIDDLESEX (Sherborn, Natick, Framingham, Weston, Newton, Arlington, Belmont, Cambridge, Somerville, Waltham, Medford, Malden,					

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stoneham, Woburn, Winchester, Burlington, Bedford, Lincoln, Lexington, Sudbury, Maynard, Concord, Everett	13.25	1.15	2.05		.10
MIDDLESEX (Ashby, Shirley, Ayer, Boxboro, Stow, Hudson, Marlboro, Ashland, Hopkinton, Holliston)	13.25	1.15	2.05		.10
ESSEX (Remainder of County); MIDDLESEX (Remainder of County)	13.59	1.15	3.25		.06
LATHERS	11.90	1.00	.55		.03
LINE CONSTRUCTION:					
Lineman	13.50	.70	.50+3%	d	3/8 of1%
Driver Groundman	9.64	.70	.50+3%	d	3/8 of1%
Groundman	8.82	.70	.50+3%	d	3/8 of1%
Equipment Operators	12.06	.70	.50+3%	d	3/8 of1%
MARBLE, TILE & TERRAZZO WORKERS	11.40	.85	1.50		
MILLWRIGHTS	14.45	1.00	1.00		.10
PAINTERS:					
BARNSTABLE, PLYMOUTH (Marion, Mattapoisett, Rochester, Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, New Bedford, N. & S. Dartmouth); DUKES; NANTUCKET					
Brush/Roller	11.63	.90	.85		
Taping	11.73	.90	.85		
Spray	12.98	.90	.85		
Sandblast, Chipping Hammer, Power Brush	13.13	.90	.85		
Paperhangers, Vinyl Installer	12.13	.90	.85		
Steel	14.88	.90	.85		
Steel Spray	16.23	.90	.85		
Sandblast, Chipping Hammers, Power Tools (Steel)	16.38	.90	.85		

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MIDDLESEX (Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Lttleton, Lowell, Tewksbury, Tyngsboro, Westford and Wilmington)					
Brush/Taper/Paper-Hanging	12.81	1.18	1.70		.04
Spray/Steel/Sandblast	14.31	1.18	1.70		.04
Repaint	10.89	1.18	1.70		.04
MIDDLESEX (Ashby, Townsend, Pepperell, Groton, Shirley, and Ayer)					
Brush	13.43	.90	1.65		.04
Spray/Sandblast	14.43	.90	1.65		.04
Steel	15.55	.90	1.65		.04
Repaint	11.42	.90	1.65		.04
Residential	10.07	.90	1.65		.04
MIDDLESEX (Boxboro, Action, Concord, Stow, Maynard, Lincoln, Lexington, Hudson, Sudbury, Wayland, Weston, Waltham, Watertown, Newton, Marlboro, Framingham, Natick, Ashland, Sherborn, Hopkinton, Holliston); NORFOLK (Dover, Medfield, Medway, Millis, Needham, Wellesley)					
New Construction:					
Brush	11.85	.85	.80		.03
Steel	13.10	.85	.80		.03
Spray, Sandblasting & Epoxy	12.85	.85	.80		.03
Repaint and Residential:					
Brush	11.30	.85	.80		.03
Steel	12.55	.85	.80		.03
Spray, Sandblasting & epoxy	13.85	.85	.80		.03

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SUFFOLK, ESSEX, PLYMOUTH (remainder of County); BRISTOL (Remainder of Co.); MIDDLESEX (Remainder of County); NORFOLK (Remainder of County)					
New Construction:					
Brush/Taper	13.71	.82	1.90		.04
Spray/Sandblast	14.71	.82	1.90		.04
Steel	16.12	.82	1.90		.04
Repaint:					
Brush/Taper	12.29	.82	1.90		.04
Spray/Sandblast	13.29	.82	1.90		.04
Steel	16.12	.82	1.90		.04
SIGN PAINTERS	10.85	1.00	.50		.04
PILEDRIVERMEN	13.15	1.00	1.00		
PLASTERERS:					
SUFFOLK, MIDDLESEX (Arlington, Cambridge, Everett, Malden, Melford, Melrose, Somerville); NORFOLK (Brookline, Milton); PLYMOUTH (Norwell only)	12.55	.85	1.68		.02
PLASTERERS TENDERS	9.80	.75	1.10		.10
PLUMBERS AND STEAMFITTERS:					
BARNSTABLE; BRISTOL (Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. & S. Dartmouth, Somerset, Swandea, Westport, and Seekonk) PLYMOUTH (Marion, Mattapoisett Rochester, and Wareham);					
DUKES, NANTUCKET	12.89	1.05	1.88		.20
Resident	11.60	1.05	1.88		.20
MIDDLESEX (Ashby, Townsend, Groton, Shirley, Ft. Devens, Ayer-West of Greenville Branch of the Boston and Maine RR)	11.71	.90	.90	.47	.05

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND PIPEFITTERS:					
MIDDLESEX (Acton, Ayer - except West of Greenville Branch of the Boston and Maine RR, Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford and Wilmington)	13.72	1.10	1.10		.02
MIDDLESEX (Ashland, Belmont, Concord, Framington, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Sudbury, Stow, Waltham, Wayland, Weston, Hudson); NORFOLK (Medway, Medfield, Dover, Wellsley)	16.77	1.30	1.08		.05
SUFFOLK, MIDDLESEX (Remainder of Co.); NORFOLK (except Avon, Holbrook, Randolph, Stoughton, Dover, Medfield, Medway, Wellesley); ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); PLYMOUTH (Hingham, Hull, Scituate,					
PLUMBERS	16.65	1.02	2.73		.08
PIPEFITTERS	16.15	1.10	2.45		.07
PLYMOUTH (Remainder of Co.); BRISTOL (Remainder of County); NORFOLK (Avon, Holbrook, Randolph, Stoughton)	14.25	.95	.80		.05

DECISION NO. MA81-3054	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS, PIPEFITTERS AND STEAMFITTERS:					
ESSEX (Methuen, Lawrence, Groveland, Georgetown, Andover, North Andover)	15.05	1.12	1.50		.10
ESSEX (Remainder of Co.)	13.40	1.65	.87		.05
ROOFERS:					
BARNSTABLE CO., PLYMOUTH (Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham and Hingham); BRISTOL (Seekonk, Reboboth, Dighton, Berkley, Swansea, Somerset, Fall River, Freetown, Westport, Dartmouth, New Bedford, Achushnet, Fairham); DUKES; NANTUCKET	10.45	1.00	.55		
PLYMOUTH (Brockton)	8.50				
ESSEX (Harver Hill)	7.65			e	
SUFFOLK, MIDDLESEX, NORFOLK, ESSEX (Remainder of Co.); BRISTOL (Remainder of Co.)					
Journeyman	13.25	.70	1.85		.17
Pitch Work	14.25	.70	1.85		.17
SHEET METAL WORKERS:					
BARNSTABLE, PLYMOUTH (Marion, Mattapoisett, Rochester, Wareham); BRISTOL (Acushnet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, Reboboth, Seekonk, Somerset, Swansea, Westport, & New Bedford); DUKES; NANTUCKET	11.24	1.05	1.34		.04
SUFFOLK, MIDDLESEX, NORFOLK, ESSEX, PLYMOUTH (Remainder of County); BRISTOL (Remainder of County)	14.62	1.16	1.95		.10

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	16.30	.85	1.20		.06
TILE AND MARBLE FINISHERS	10.34	.90	.75		
TERRAZZO FINISHERS	10.95		1.10		

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% if 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.

b. Holidays: A through F and the day after Thanksgiving Day

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve provided employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday

d. Holidays: A through F, Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays

e. Holidays: A through F, Patriots' Day, Washington's Birthday, Columbus Day, Veteran's Day, 1 week of vacation after 1 year's employment

f. Apprentice Training: $1.00 per week per journeyman

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING):					
CLASS I:					
Laborers, Carpenter Tenders, Wrecking Laborers	10.80	.75	1.10		.10
CLASS II:					
Jackhammer Op., Pavement Breakers, Asphalt Rakers, Carbide Core Drilling Machine, Chain Saw Op., Pipelayer, Barco Type Jumping Tampers; Laser Beam, Concrete Pump, Mason Tenders, Motorized Mixers, Ride-on Motorized Buggy, Fence and Beam Rail Erectors	11.05	.75	1.10		.10
CLASS III:					
Air Track, Block Pavers, Rammers Curb Setter	11.55	.75	1.10		.10
CLASS IV:					
Blasterers, Powdermen	11.80	.75	1.10		.10
CLASS V:					
Pre Cast Floor and Roof Plank Erectors	11.30	.75	1.10		.10

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY AND HIGHWAY LABORERS:					
CLASS I	10.80	.75	1.10		.10
CLASS II	11.05	.75	1.10		.10
CLASS III	11.55	.75	1.10		.10
CLASS IV	11.80	.75	1.10		.10

CLASS I - Carpenter Tenders, Cement Finisher Tenders, Laborers, Wrecking Laborers

CLASS II - Asphalt Rakers, Fence and Guard Rail Erector, Laser Beam Op., Mason Tender, Pipelayer, Pneumatic Drill Op., Pneumatic Tool Op., Wagon Drill Op.

CLASS III - Air Track Op., Block Pavers, Rammer, Curb Setters

CLASS IV - Blasters, Powdermen

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:					
CLASS I	15.26	1.18	1.15	a	.08
Hourly premium for boom lengths including jib:					
Over 150 feet + .55					
Over 185 feet + .99					
Over 210 feet + 1.37					
Over 250 feet + 2.08					
Over 295 feet + 2.90					
CLASS II	15.14	1.18	1.15	a	.08
CLASS III	12.81	1.18	1.15	a	.08
CLASS IV	13.94	1.18	1.15	a	.08
CLASS V	11.38	1.18	1.15	a	.08
CLASS VI	12.06	1.18	1.15	a	.08

CLASSIFICATIONS

CLASS I - Cranes, shovels, truck cranes, cherry pickers, dragline, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pump-crete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site, crusher plant (on site), paving concrete mixers, timber jacks

CLASS II - Sonic or vibratory hammers, graders, tandem scrapers, concret pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III - Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete Mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

DECISION NO. MA81-3054

CLASSIFICATIONS CONT'D

CLASS IV - Assistant engineers (firemen)
CLASS V - Assistant engineers (other than truck cranes and gradalls)
CLASS VI - Assistant engineers (on truck cranes and gradalls)

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriot Day

HEAVY AND HIGHWAY CONSTRUCTION:					
POWER EQUIPMENT OPERATORS:					
CLASS I	15.26	1.18	1.15	a	.08
Hourly premium for boom lengths including jib:					
Over 150 feet + .55					
Over 185 feet + .99					
Over 210 feet + 1.37					
Over 250 feet + 2.08					
Over 295 feet + 2.90					
CLASS II	15.14	1.18	1.15	a	.08
CLASS III	12.81	1.18	1.15	a	.08
CLASS IV	13.94	1.18	1.15	a	.08
CLASS V	11.38	1.18	1.15	a	.08
CLASS VI	12.06	1.18	1.15	a	.08

DECISION NO. MA81-3054

CLASSIFICATIONS

CLASS I - Power shovels, cranes, truck cranes, derricks, pile divers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks
CLASS II - Sonic or vibratory hammers, graders; scrapers; tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, potable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers
CLASS III - Pump (1-3 grouped), compressors; welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)
CLASS IV - Assistant engineers (firemen)
CLASS V - Assistant engineers (other than truck cranes and gradalls)
CLASS VI - Assistant engineers (on truck cranes and gradalls)

FOOTNOTES:

a. Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA81-3054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARINE CONSTRUCTION POWER EQUIPMENT OPERATORS					
CLASS I	15.26	1.18	1.15	a	.08
Hourly premium for boom lengths including jib:					
Over 150 feet +	.55				
Over 185 feet +	.99				
Over 210 feet +	1.37				
Over 250 feet +	2.08				
Over 295 feet +	2.90				
CLASS II	15.14	1.18	1.15	a	.08
CLASS III	12.81	1.18	1.15	a	.08
CLASS IV	13.94	1.18	1.15	a	.08
CLASS V	11.38	1.18	1.15	a	.08
CLASS VI	12.06	1.18	1.15	a	.08

CLASSIFICATIONS

CLASS I - Shovels, Cranes, Truck Cranes, Cherry Pickers, Derricks, Pile Drivers two or more Drum Machines, Lighterns, Derrick Boats, Trenching, Mechanic Hoists Pavement Breakers, Cement Concrete Paveers, Draglines, Hoisting Engines, Pumpcrete Machines, Elevating Graders, Shovels, Dozers, Frontend Loaders, Backhoe, Gradalls, Cable Way, Boring Machines, Rotary Drills, Post Hole Hammer, Post Hole Diggers, Fork Lifts, Timber Jacks, Asphalt Plant (on site), Concrete Batching &/or Mixing Plant (on site), Crusher Plant, (on site), Paving Concrete Mixers

CLASS II - Portable Steam Boilers, Portable Steam Generators, Sonic or Vibratory Hammer, Graders, Scrapers, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors, York Rakes, Mulching Machines, Rollers, Spreader, Tamper self-propelled or Tractor Drawn, Asphalt Pavers, Concrete Mixers with side Loaders, Mechanics - Maintenance, Cal Trucks, Ballast, Regulator, Switch Tampers, Rail Anchor Machines, Tire Trucks

CLASS III - Pumps, Compressors, Welding Machines, Heaters (Power Driven), Valves controlling Permanent Plan Air or Steam, Well Point Systems, Augers - Powered by Independence Engines & Attached to Pile Drivers, Hydraulic Saws, Generators, Lighting Plants, Syphons-Pulsometers, Concrete Mixers, Conveyors

CLASS IV - Assistant engineers (firemen)

CLASS V - Assistant engineers (other than truck cranes and gradalls)

CLASS VI - Assistant engineers (on truck cranes and gradalls)

FOOTNOTES:

a. Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA81-3054

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	10.56	1.10	1.20	a+b	
CLASS II	10.73	1.10	1.20	a+b	
CLASS III	10.80	1.10	1.20	a+b	
CLASS IV	10.92	1.10	1.20	a+b	
CLASS V	11.02	1.10	1.20	a+b	
CLASS VI	11.31	1.10	1.20	a+b	
CLASS VII	11.60	1.10	1.20	a+b	

CLASSIFICATIONS

CLASS I - Station Wagons, Panel Trucks and Pickup Trucks

CLASS II - Two axle Equipment; Helpers on Low Bed When Assigned at the Discretion of the Employer, Warehousemen, Forklift Operators

CLASS III - Three Axle Equipment and Tiremen

CLASS IV - Four and Five Axle Equipment

CLASS V - SPecialized Earth Moving Equipment under 35 tons other than Convential 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. Paid Holidays: New Year's Day, Washington's Birthday, Patriot's Day, Memorial Day, Independence Day, Labor Day, COlumbus Day, Veterans Day, Thanksgiving Day, and Christmas Day

b. Paid Vacation: 4 months to 1 year - ½ day's pay er month; 1-5 years - 1 week; 5-10 years - 2 weeks; 10 years or more - 3 weeks. Employee must have received pay for 120 days during last year of employment

SUPERSEDEAS DECISION

STATE: MICHIGAN COUNTIES: KENT & MONTCALM
DECISION NUMBER: MI81-2059 DATE: DATE OF PUBLICATION
Supersedes Decision Number MI78-2023, dated March 10, 1978, in 43 FR 10193.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.74				
CARPENTERS	8.04				
CEMENT MASONS	8.78				
DRYWALL FINISHERS & TAPERS	8.50				
DRYWALL HANGERS	8.53				
ELECTRICIANS	8.35				
POST SETTERS	8.00				
LABORERS:					
General	6.54				
Landscape	5.33				
PAINTERS	7.05				
PLASTERERS	8.00				
PLUMBERS & PIPEFITTERS	8.99				
ROOFERS	8.50				
SHEET METAL WORKERS	7.80				
SOFT FLOOR & CARPET LAYERS	10.00				
TILE SETTERS	11.25				
TRUCK DRIVERS	8.37				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	8.38				
Bulldozer	8.68				
Crane	8.46				
Front end loader	7.96				
Motor grader	9.92				
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).					

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: HANCOCK, HARRISON, JACKSON, and PEARL RIVER
DECISION NUMBER: MS81-1287 DATE: Date of Publication
Supersedes Decision No.: MS81-1223, dated May 8, 1981 in 46 FR 25920.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 (four) stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Hancock & Pearl River Cos.	$12.50	.65	1.30		.07
Harrison & Jackson Cos.	13.15	.90	1.25	a	.02
BOILERMAKERS	12.90	1.375	1.20		.04
BRICKLAYERS:					
Bricklayers	11.45		.60		.01
Blockmasons	11.45		.60		.01
Caulkers & Pointers	11.45		.60		.01
Marble Masons	11.45		.60		.01
Plasterers	11.35		.60		.01
Stone Mason	11.45		.60		.01
Terrazzo Workers	11.35		.60		.01
Tile Setters	11.35		.60		.01
CEMENT MASONS	10.85		.60		.01
CARPENTERS:					
Carpenters	10.55	.45	.45		.10
Millwrights	11.30	.45	.45		.10
Soft Floor Layers	10.55	.45	.45		.10
ELECTRICIANS:					
Cable Splicers	13.35	5%	5%		1/8%
Electricians	13.10	5%	5%		1/8%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.65	1.345	1.085	b	.035
Helpers	8.155	1.345	1.085	b	.035
IRONWORKERS:					
Structural, Ornamental, & Reinforcing					
Jackson Co. & eastern 1/3 of Harrison Co.(including Biloxi, Keesler AFB, & towns of Howison & Success	12.66	.65	.60		.10
Hancock & Pearl River Cos. and western 2/3 of Harrison Co.	12.52	.93	.65		.08
LABORERS:					
Asphalt Rakers	7.15	.40	.20		.05
Mason Tenders	7.15	.40	.20		.05
Mortar Mixers	7.15	.40	.20		.05
Pipelayers & Wrappers	7.15	.40	.20		.05
Plasterers Tenders	7.15	.40	.20		.05
Post Hole Diggers	7.15	.40	.20		.05
Unskilled	7.00	.40	.20		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Cable Splicers	$13.35	5%	5%		1/8%
Linemen	13.10	5%	5%		1/8%
PAINTERS:					
Commercial:					
Brush	7.50		.40		.20
Roller	7.50		.40		.20
Spray	8.25		.40		.20
Industrial:					
Brush	8.20		.40		.20
Spray	9.50		.40		.20
Sandblasting	9.50		.40		.20
PILEDRIVERMEN	9.55	.45			.03
PLUMBERS & STEAMFITTERS	12.28	.66	.85		.05
POWER EQUIPMENT OPERATORS:					
Group 1	11.28	.60	.30		.05
Group 2	10.23	.60	.30		.05
Group 3	9.98	.60	.30		.05
Group 4	9.03	.60	.30		.05
Group 5	7.63	.60	.30		.05
Group 6	7.63	.60	.30		.05
Group 7	12.13	.60	.30		.05
ROOFERS:					
Roofers	10.00		.30		
Kettleman	7.75		.30		
SHEET METAL WORKERS	11.35	3%+.65	1.11		14
SPRINKLER FITTERS	13.65	.95	1.40		.08
TRUCK DRIVERS:					
Group 1	7.25	.40	.50		
Group 2	7.84	.40	.50		
Group 3	9.15	.40	.50		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

POWER EQUIPMENT OPERATORS: Classification Definitions

Group 1: Engineer (operating under pressure)
Group 2: Mechanic
Group 3: Air tugger (2 drum), asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick, derrick boat, derrick car, dragline, dredge, elevating grader, excavator (power belt), forklift, hoist (2 drum), locomotive engineer, marine engineer (chief), master pilot, mixer mobile, motor patrol and similar type equipment, paver (21 c.f. or larger), piledriver, recharger, roaming greaser (1st), scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), tournapull, DW-10 and similar pull type scrapers, trascavator and similar endloaders, welders, welding machine or s/w pumps (2 to 6), well driller, well point pumps
Group 4: Air Tugger, asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), beckfilling machine, conveyor, drill (earth), finishing machine, firemen, heating plant, hoist, marine engineer (assistant), mixer, payloader, and similar endloaders, pilot power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machine (18" or smaller bucket line width), tugboat, winch truck.
Group 5: Air compressor, form grader, locomotive hostler, oiler (truck crane), pump, roughneck, tractor (without attachments), welding machine.
Group 6: Batch scale, deckhand, motorboat (in or outboard), oiler, scowman.
Group 7: Operating engineers servicing boilermakers, electricians, ironworkers, piledrivers, and pipefitters.

TRUCK DRIVERS: Classification Definitions

Group 1: Truck drivers on equipment up to but not including 1½ tons, station wagons, jeeps, and automobiles, truck spotters
Group 2: Truck drivers on equipment 1½ tons and up but not including 5 tons
Group 3: Truck drivers on equipment rated 5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss or corning wagons, dumpsters, semi-drivers, agitators, ross carriers, dempsey dumps, euclid trucks, forklift trucks in warehouse and similar equipment, such as tractors, 10 wheelers, jeeps or dump trucks or pickup trucks pulling two or four wheel trailers hauling equipment

Footnotes;
a. two paid holidays
b. employer contributes 6% of basic hourly rate for 6 months to 5 years service and 8% for over 5 years service as vacation pay credit; also seven paid holidays

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTY: WARREN
DECISION NUMBER: MS81-1285 DATE: Date of Publication
Supersedes Decision No.: MS81-1224, dated May 8, 1981 in 46 FR 25921
DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.79	.84	.50		.02
BOILERMAKERS	12.90	1.575	1.20		.04
BRICKLAYERS:					
Bricklayers	11.40	.35	.25		.05
Stone, Block, Marble Masons	11.40	.35	.25		.05
Caulkers, Pointers, Cleaners	11.40	.35	.25		.05
Tile & Terrazzo Workers	11.25	.35	.25		.05
CARPENTERS:					
Carpenters	10.25	.45	.25		.10
Millwrights	10.85	.45	.25		.10
Piledrivermen	10.85	.45	.25		.10
CEMENT MASONS	9.85	.35	.25		.05
ELECTRICIANS:					
Electricians	12.25	.35	3% + .50		.04
Cable Splicers	12.50	.35	3% + .50		.04
ELEVATOR CONSTRUCTORS					
Mechanics	11.65	1.375	1.085	a	.035
Helper	8.155	1.375	1.085	a	.035
GLAZIERS	9.84				
IRONWORKERS	11.50	.60	.95		.04
LABORERS:					
Mortar Mixers	6.90	.25	.20		.05
Unskilled	6.65	.25	.20		.05
LATHERS	9.40	.45	.25		.10
PAINTERS:					
Brush	8.50	.50	.10		
Drywall Tapers	8.50	.50	.10		
Roller	8.50	.50	.10		
Spray	9.00	.50	.10		
PLASTERERS	8.55	.35	.50		.05
PLUMBERS & PIPEFITTERS	12.74	.55	.67	a	.05
POWER EQUIPMENT OPERATORS:					
Group 1	10.53	.50	.30		.05
Group 2	9.73	.50	.30		.05
Group 3	9.48	.50	.30		.05
Group 4	8.88	.50	.30		.05
Group 5	7.23	.50	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$10.00		.30		
SHEET METAL WORKERS	10.55	.45	.45		.07
SPRINKLER FITTERS	13.69	.95	1.40		.08
TRUCK DRIVERS:					
Group 1	7.25	.40	.50		
Group 2	7.84	.40	.50		
Group 3	9.15	.40	.50		

POWER EQUIPMENT OPERATORS: Classification Definitions

Group 1: Engineer (operating under pressure)
Group 2: Mechanic
Group 3: Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick, derrick car, derrick boat, dragline, dredge, elevating grader, excavator (power belt), forklift (5tons & over), hoists (2 drums in active use), locomotive engineer, marine engineer (chief), master pilot, mixer-mobile, motor patrol and similar equipment, paver (21 C.F. or larger), piledriver, recharger, scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DW-10 and similar pull type scrapers), trascavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps
Group 4: Asphalt spreader (bituminous distributor and mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift, (over 2 tons and less than 5 tons), heating plant, hoist (1 drum), marine engineer's assistant, mixer payloader and similar endloader, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, winch truck and tractor, small rubber tire with backhoe attachment.
Group 5: Air compressor, batch scale, deckhand, forklift (2 tons and under), form grader, locomotive hostler, motor boat (in or outboards), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine

Booms, including jib;
100 ft to 200 ft - 50¢ per hour above regular pay
201 ft to 300 ft - 75¢ per hour above regular pay
301 ft and over - $1.00 per hour above regular pay

TRUCK DRIVERS: Classifications Definitions

Group 1: Truck drivers on equipment up to but not including 1½ tons, station wagons, jeeps and automobiles, truck spotters
Group 2: Truck drivers on equipment 1½ tons and up but not including 5 tons
Group 3: Truck drivers on equipment rated 5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss or corning wagons, dumpsters, semi-drivers, agitators, ross carriers, dempsey dumps, euclid trucks, forklift trucks in warehouse and similar equipment, such as tractors, 10 wheelers, jeeps or dump trucks or pickup trucks pulling two or four wheel trailers hauling equipment

Footnotes:
a. Employer contributes 6% of basic hourly rate for 6 months to 5 years service and 8% for over 5 years service as vacation pay credit; also seven paid holidays.
b. Two paid holidays.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Hinds
DECISION NUMBER: MS81-1286 DATE: Date of Publication
Supersedes Decision Number MS81-1264, dated July 10, 1981 46 FR 35882
DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.79	.84	.50		.02
BOILERMAKERS	12.90	1.375	1.20		.04
BRICKLAYERS:					
Bricklayers	11.40	.35	.25		.05
Stone,Block, & Marble Masons	11.40	.35	.25		.05
Caulkers, Pointers, & Cleaners	11.40	.35	.25		.05
Tile & Terrazzo Setters	11.25	.35	.25		.05
CARPENTERS:					
Carpenters	10.55	.45	.40		.10
Power Saw Operators (1 hp. or over)	10.80	.45	.40		.10
Fiber Glass Insulation Application	10.70	.45	.40		.10
Millwrights	11.15	.45	.40		.10
Piledrivermen	10.90	.45	.40		.10
CEMENT MASONS:					
Cement Masons	8.90	.45	.50		.05
Float Machine Operator	9.10	.45	.50		.05
ELECTRICIANS:					
Electricians	12.25	.35	3%+.50		.04
Cable Splicers	12.50	.35	3%+.50		.04
ELEVATOR CONSTRUCTORS	11.65	1.345	1.085	a+b	.035
GLAZIERS	9.84				
IRONWORKERS	11.50	.60	.95		.04
LABORERS:					
Laborers	6.65	.25	.20		.05
Wrecking & Demolition	6.65	.25	.20		.05
Mason Tenders	6.80	.25	.20		.05
Plasterer Tenders	6.80	.25	.20		.05
Pipelayers	6.80	.25	.20		.05
Mortar Mixer	6.90	.25	.20		.05
Mechanical Tools, Motorized (GA) Buggy Operators	6.90	.25	.20		.05
LATHERS	8.65				.01
LINE CONSTRUCTION:					
Linemen	11.63	.45	3%	c+2%	½%
Cable Splicers	11.93	.45	3%	c+2%	½%
Groundman	7.05	.45	3%	c+2%	½%

DECISION NO. MS81-1286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller	8.50	.50	.10		
Spray	9.00	.50	.10		
Sandblast	9.50	.50	.10		
PLASTERERS	9.85	.55	.50		.05
PLUMBERS, STEAMFITTERS, & PIPEFITTERS	12.50	1.05	1.00		
ROOFERS:					
Roofers	11.30		.40		
Kettlemen	8.60		.40		
Paper Roller	8.60		.40		
SHEET METAL WORKERS	12.05	.45	.50		.10
SPRINKLER FITTERS	12.80	.85	1.20		.08

FOOTNOTES:

a. Paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day, Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 6% for employees with less than 5 years.

c. One week vacation after one year's service.

DECISION NO. MS81-1286

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	11.53	.50	.30		.05
GROUP II	10.65	.50	.30		.05
GROUP III	10.38	.50	.30		.05
GROUP IV	9.72	.50	.30		.05
GROUP V	7.93	.50	.30		.05

Boom including jib:
$.50 above regular rate - 100 ft. thru 200 ft.
$1.00 above regular rate - 201 ft. thru 300 ft.
$2.00 above regular rate - 301 ft. thru 400 ft.
$3.00 above regular rate - 401 ft. thru 500 ft.
$3.25 above regular rate 501 ft. and above

GROUP I - Engineer operating under air pressure.

GROUP II _ Mechanic

GROUP III - Asphalt Plant, Backhoe, Blacksmith, Boom Tractor, Bulldozer, Central Mixing Plant, Cherry Picker, Clamshell, Crane, Derrick Car, Derrick, Derrick Boat, Dragline, Dredge Elevating Grader, End Loader, Excavator (power belt), Fork Lift (5 tons & over), Hoists (2 drums in active use), Locomotive Engineer, Marine Engineer (chief), Master Pilot, Mixer-Mobile, Motor Patrol and similar Equipment, Paver (21 c.f. or larger), Pile Driver, Recharger, Scoop (skimmer), Scraper, Shovel, Trenching Machine (over 18" bucket line width), Turnapull (DW-10 and similar pull type scrapers), Traxcavator and similar Endloaders, Welder, Welding Machines and Pumps (operating 2 to 6 Machines, Well Driller, Well Point Pumps

GROUP IV - Asphalt spreader (bituminous distributor), Asphalt Spreader (bituminous mixer), Backfilling Machine, Conveyor, Drill (earth), Finishing Machine, Fireman, Forklift (over 2 tons and less than 5 tons), Heating Plant, Hoist (one drum), Marine Engineer's Assistant, Mixer Payloader and similar Endloaders, Pilot, Power Generating Plant, Pump (concrete), Roller, Scoopmobile, Tractor (with power take-off), Trenching Machines (19" or smaller bucket line width), Tugboat, Winch Truck and Tractor, Small Rubber Tired with Backhoe Attachment.

DECISION NO. MS81-1286

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP V - Air Compressor, Batch Scale, Deckhand, Forklift (2) tons & under), Form Grader Locomotive Hostler, Motorboat (in or out-board), Oiler, Pump, Roughneck, Scowman, Tractor (with attachments), Welding Machine

Booms including jib:
$.50 above regular rate - 100 ft. thru 200 ft.
$.75 above regular rate - 201 ft. thru 300 ft.
$1.00 above regular rate - over 300 ft.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Wagoner
DECISION NO. OK81-4069 DATE: Date of Publication
SUPERSEDES DECISION NO. OK80-4065 dated July 25, 1980 in 45FR49832
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.19	.75	1.00		.03
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS	14.00	.70	.70		.05
CARPENTERS:					
Carpenters	11.28	.65	.75		.08
Millwrights-Piledrivermen	11.78	.65	.75		.08
CEMENT MASONS:					
Zone I - that portion of Wagoner County on a diagonal line from the N/E corner of Okmulgee to the S/E corner of Mayes	12.29		.40		.16
ZONE II - Remainder of Co.	9.90				
ELECTRICIANS:					
ZONE I					
Electricians	12.55	.60	3%		1%
Cable splicers	12.95	.60	3%		1%
ZONE II					
Electricians	12.95	.60	3%		1%
Cable splicers	13.35	.60	3%		1%
ZONE III					
Electricians	14.35	.63	3%+.61		.10
Cable splicers	14.60	.63	3%+.61		.10

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

Blue Mount, Coweta, Gatesville, Shannon, Tullahassee, Porter and Stone Bluff Townships.
ZONE I - A thirty (30) mile radius from the Post Office in Muskogee
ZONE II - That area outside Zone I
ZONE III - Adams, Creek, Lone Star and Shahan Townships Only.

ELEVATOR CONSTRUCTORS	13.54	1.345	.95	a+b	.935
ELEVATOR CONSTRUCTORS' HELPER	70%JR	1.345	.95	a+b	.935
GLAZIERS	12.62	.70	.30		.01
IRONWORKERS	13.35	.80	1.15		.12
LABORERS:					
Construction laborers	7.85	.25	.40		
Mason tenders, mortar mixers, sewer drain; tile layers; machine tool operator	8.15	.25	.40		
Powdermen (make-up) wagon drill operator	8.35	.25	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Linemen	$12.50		3%		1/2%
Cable splicers	13.25		3%		1/2%
Hole digger operator	11.33		3%		1/2%
Heavy equipment operator for pole cat equivalent)	11.33		3%		1/2%
Line truck driver (winch operator)	10.27		3%		1/2%
Jackhammerman	9.35		3%		1/2%
Powderman	11.33		3%		1/2%
Groundman	8.34		3%		1/2%
Truck driver (flat bed, ton and half and under)	8.91		3%		1/2%
PAINTERS (Southeastern half of Wagoner):					
Brush and roller	11.05		.40	.20	.10
Highwork and stage	11.65		.40	.20	.10
Sandblasting and spray	11.90		.40	.20	.10
Hot or bituminous	12.55		.40	.20	.10
PAINTERS (Northwestern half of Wagoner):					
Brush and roller	12.85		.40		.10
Highwork or stage	13.25		.40		.10
Sandblasting or spray	13.85		.40		.10
Hot or bituminous	14.15		.40		.10
Sheetrock hand tools	12.85		.40		.10
Sheetrock power tools	13.25		.40		.10
PLUMBERS-STEAMFITTERS	15.60	.80	1.10		.20
POWER EQUIPMENT OPERATORS:					
Group I	13.40	.70	.75		.12
Group II	12.90	.70	.75		.12
Group III	12.40	.70	.75		.12
Group IV	12.15	.70	.75		.12
Group V	11.90	.70	.75		.12
Group VI	11.65	.70	.75		.12
Group VII	11.40	.70	.75		.12
Group VIII	10.40	.70	.75		.12
POWER EQUIPMENT OPERATORS DEFINITIONS (SEE ATTACHED)					
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.50	.50	.72		.10
SPRINKLER FITTERS	13.71	.85	1.20		.08
SOFT FLOOR LAYERS	11.46	.70	.70		.03

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)

GROUP II
All crane type equipment with 200-300' of boom (including jib)

GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV
Sideboom (booms 30' and over); Guy Derrick

GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvinixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines

GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck drane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

DECISION NO. OK81-4069 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Group I	10.43				
Group II	10.53				
Group III	10.63				
Group IV	10.58				
Group V	10.73				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such dump trucks, flat beds, stake bodies

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tournerpulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready-mix concrete trucks up to but not including 3 yards

GROUP V - Ready-mix concrete trucks 3 yards and over

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Latimer, Leflore Haskell, Sequoyah & Pushmataha

DECISION NO: OK81-4072

DATE: Date of publication

Supersedes Decision #OK80-4067 dated July 25, 1980 in 45FR 49834

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.90	.75	1.00		.03
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS-STONEMASONS	14.00	.70	.70		.05
CARPENTERS:					
AREA I					
Carpenters	9.80	.55	.85		.05
Millwrights & Piledrivermen	11.15	.55	.85		.05
AREA II					
Carpenters	9.89	.50	.60		.04
Millwrights & Piledrivermen	10.64	.50	.60		.04
AREA III					
Carpenters	11.28	.65	.75		.08
Millwrights & Piledrivermen	11.78	.65	.75		.08
AREA IV					
Carpenters	8.75	.55	.10		
Millwrights & Piledrivermen	9.42	.55	.10		

CARPENTERS, MILLWRIGHTS & PILEDRIVERMEN AREA DEFINITIONS

AREA I
That portion of Leflore County south of the northern boundary of the Ouachita National Forest; Latimer County and that portion of Haskell County South of Highway 9

AREA II
That portion of Leflore County east of Highway 82 with the line extending south of the Highway 82 to Highway 9 and the northern portion of Leflore County north of the Ouachita National Forest; Sequoyah County east of Highway 82 excluding the city of Vivan

AREA III
Remainder of Haskell and Sequoyah Counties

AREA IV
Pushmataha County

CEMENT MASONS:					
Leflore County and the Southern portion of Sequoyah County	11.40	.35			.03
Pushmataha County	12.29		.40		.16
Remaining portion of Sequoyah County	9.90				
Latimer & Haskell Counties	8.00				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
AREA I					
Electricians	13.67	.60	3%+5.5%		1/4%
Cable splicers	13.92	.60	3%+5.5%		1/4%
AREA II					
Electricians	12.55	.60	3%		1/2%
Cable splicers	12.95	.60	3%		1/2%
AREA III					
Electricians	12.95	.60	3%		1/2%
Cable splicers	13.35	.60	3%		1/2%

ELECTRICIANS-CABLE SPLICERS AREA DEFINITIONS

AREA I
Braden, Pocola and Spiro Townships only in Leflore County; that part of Sequoyah County east of Brent, Prices, Chapel, Rocky Mount and Sallisaw

AREA II
That part of Sequoyah County within a five mile radius of the post office in Sallisaw

AREA III
Remainder of Leflore County; remainder of Sequoyah County; All of Haskell, Pushmataha and Latimer Counties.

GLAZIERS	12.62	.70	.30		.01
IRONWORKERS	13.35	.80	1.15		.12
LABORERS (Haskell, Leflore and Sequoyah Counties)					
Area I	7.85	.25	.40		
Area II	8.15	.25	.40		
Area III	8.35	.25	.40		
Area IV	8.35	.25	.40		
LABORERS (Latimer and Pushmataha Counties)					
Area I	7.45	.25	.40		
Area II	7.75	.25	.40		
Area III	7.95	.25	.40		
Area IV	7.95	.25	.40		

LABORERS CLASSIFICATION DEFINITION

AREA I - Unskilled laborers
AREA II - Semi-skilled laborers, mason tenders, mortar mixers, air tool operator, (jackhammer, vibrator), pipelayers, concrete and clay, sewer drain and plasterer tenders.
AREA III - Wagon drill operator
AREA IV - Powderman or blasterers

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Lineman	$12.50		3%		1/2%
Cable splicers	13.25		3%		1/2%
Hole digger operator	11.33		3%		1/2%
Heavy equipment operator(or pole cat equivalent)	11.33		3%		1/2%
Line truck driver (winch op	10.27		3%		1/2%
Jackhammer man	9.35		3%		1/2%
Powderman	11.33		3%		1/2%
Groundman	8.34		3%		1/2%
Truck driver (flat bed, ton and half and under)	8.91		3%		1/2%
MARBLE SETTERS	14.02	.90	.60		
TILE & TERRAZZO WORKERS	14.02	.90	.60		
TILE & TERRAZZO FINISHERS:					
Experienced finishers	11.63	.90			
Floor machine operator	11.80	.90			
Base machine operator	12.10	.90			
PAINTERS:					
Brush and roller	11.05		.40	.20	.10
Highwork and stage	11.65		.40	.20	.10
Sandblasting and spray painting	11.90		.40	.20	.10
Hot or bituminous	12.55		.40	.20	.10
PLASTERERS:					
Leflore County	10.50				.02
Sequoyah County	13.05				.01
PLUMBERS & PIPEFITTERS:					
Pushmataha County	14.99	.85	.85		.12
Leflore, Sequoyah, Latimer and Haskell Counties	15.60	.80	1.10		.20
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	13.50	.50	.72		.10
SOFT FLOOR LAYERS	11.46	.70	.70	a	.03
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS:					
Group 1	10.43				
Group 2	10.53				
Group 3	10.63				
Group 4	10.58				
Group 5	10.73				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III - 5 tons or 6 yards and over inlcuding heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV - Ready-mix concrete trucks up to but not including 3 yards.
GROUP V - Ready-mix concrete trucks 3 yards and over

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$13.40	.70	.75		.12
GROUP II	12.90	.70	.75		.12
GROUP III	12.40	.70	.75		.12
GROUP IV	12.15	.70	.75		.12
GROUP V	11.90	.70	.75		.12
GROUP VI	11.65	.70	.75		.12
GROUP VII	11.40	.70	.75		.12
GROUP VIII	10.40	.70	.75		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)

GROUP II
All crane type equipment with 200-300' of boom (including jib)

GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV
Sideboom (booms 30' and over); Guy Derrick

GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvinixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines

GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

FOOTNOTES:
a - PAID HOLIDAYS
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

WELDERS--Receive rate prescribed for craft performing operation to which welding is incidental.

Unlsited classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: OKLAHOMA COUNTY: Comanche
DECISION NO. OK81-4070 DATE: Date of Publication
SUPERSEDES DECISION #OK80-4068 dated August 1, 1980 in 45FR51422
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.63	.70	1.50		.04
BOILERMAKERS	14.80	1.275	1.00		.04
BRICKLAYERS-Stonemasons	11.91	.62	1.00		.12
CARPENTERS:					
Carpenters	10.85	.65	.50		.04
Millwrights-Piledrivermen	11.35	.65	.50		.04
Power saw operator	10.975	.65	.50		.04
ELECTRICIANS	12.75	.60	3%		1/4%
ELEVATOR CONSTRUCTORS	13.94	1.345	1.085	a+b	.035
ELEVATOR CONSTRUCTORS HELPER	70%JR	1.345	1.085	a+b	.035
GLAZIERS	11.10		.30		
IRONWORKERS	13.35	.80	1.15		.12
LABORERS:					
Group I	7.30	.25	.40		
Group II	7.55	.25	.40		
Group III	8.05	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping teating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating and sand blaster, except nozzle; signal men cutting torch operators in connection with laborers' work; concrete grader.

GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$12.50		3%		1/2%
Cable splicers	13.25		3%		1/2%
Hole digger operator	11.33		3%		1/2%
Heavy equipment operators (or pole cat equivalent)	11.33		3%		1/2%
Line truck driver(winch op.)	10.27		3%		1/2%
Jackhammerman	9.35		3%		1/2%
Powdermen	11.33		3%		1/2%
Groundmen	8.34		3%		1/2%
Truck driver (flat bed, ton and half and under)	8.91		3%		1/2%
MARBLE SETTERS	13.52		.90		
PAINTERS:					
Brush and roller	9.90		.25	.70	.08
Brush & roller (structural steel)	10.15		.25	.70	.08
Spray	10.55		.25	.70	.08
Swing stage, bosun chair work	10.15		.25	.70	.08
Taping & bedding(hand tools)	10.20		.25	.70	.08
Sandblasting	10.25		.25	.70	.08
PLASTERERS	14.20				.01
PLUMBERS & PIPEFITTERS	14.99	.85	.85		.12
ROOFERS	11.40	.60	.50		.04
SHEET METAL WORKERS	14.80	.88	1.53		.11
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	12.10	.60		1.00	.03
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS	13.52		.90		
TILE LAYERS	13.52		.90		
POWER EQUIPMENT OPERATORS:					
Group I	13.40	.70	.75		.12
Group II	12.90	.70	.75		.12
Group III	12.40	.70	.75		.12
Group IV	12.15	.70	.75		.12
Group V	12.90	.70	.75		.12
Group VI	12.65	.70	.75		.12
Group VII	12.40	.70	.75		.12
Group VIII	10.40	.70	.75		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)
GROUP II
All crane type equipment with 200-300' of boom (including jib)
GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV
Sideboom (booms 30' and over); Guy Derrick
GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)
GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type
GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines
GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Group I	9.70				
Group II	9.70				
Group III	9.40				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch and floats
GROUP II - Heavy earth moving equipment such as dump trucks and euclids
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

FOOTNOTES:
a - 1st 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate.
b - Paid Holidays, A through F
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne
DECISION NUMBER: PA81-3051 DATE: Date of Publication
Supersedes Decision No. PA80-3030 dated May 30, 1980, in 45 FR 36764
DESCRIPTION OF WORK: Building Construction, including single family homes and apartments up to and including 4 stories, excluding Sewage and Water Treatment plant projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.225	.80	.90		.01
BOILERMAKERS	16.67	1.275	1.00		.02
BRICKLAYERS: Stonemasons:					
Nescopeck, Hollenback and Salem Townships	12.15	.55	.70		.01
Remainder of County	12.80	1.05	.95		
CARPENTERS:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	12.72	.70	.90		.05
Remainder of County	12.89	.70	.90		.05
CEMENT MASONS:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Deruea and Avoca	12.55				
All North of Hazleton, extending half-way between Wilkes-Barre and Hazleton, Harleigh, Jeddo, Cranberry; Foster Twps., Butler Twps., Dennison Twps., Sugarloaf Twps., Conyngham, Drums, S. Johns, Borough of Freeland & White Haven, Banks Twps; Beaver Meadows, Tresckow, Jeansville & Audenried	13.50				.01
Remainder of County	12.78				
ELECTRICIANS:					
That portion east of a line following the Susquehanna River south to the City of Pittston, east & south on the limits of Pittston but excluding it, to U. S. Highway 11, east on 11 to Dupont Borough & Highway 215, and southeast on 215. Also that portion of Luzerne County south and					

DECISION NO. PA81-3051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
east of a line following the Thornhurst Road, southwest to State Highway 115 and southeast on 115 to the Monroe County line.					
Zone A - From 20 to 30 miles from zero milestone marker	13.20	.90	3%+.60	1.00	.10
Zone B - All distance beyond 30 miles	13.70	.90	3%+.60	1.00	.10
Hazleton, Nescopeck, Hollenbach, Black Creek, Sugar Loaf, Hazle, Butler, Foster Twps., and the Borough of White Haven in their entirety and that portion of Dennison Twp., south and west of the Central Railroad of New Jersey line between Wright Township and White Haven	13.27	.65	3%+1.00	a	.05
Remainder of County	13.69	.65	3%+1.25		.03
ELEVATOR CONSTRUCTORS	11.695	1.195	.95	c+d	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	c+d	.035
ELEVATOR CONSTRUCTORS' (PROB.)	50%JR				
GLAZIERS	11.85	.70	1.20		
IRONWORKERS:					
Structural & Ornamental	14.75	e			.10
Reinforcing	14.65	e			.10
LABORERS:					
Hazleton:					
Laborers	8.59	.80	1.10		
Mason tenders including scaffold builders	8.99	.80	1.10		
Pneumatic, electric and mechanical tool operators					

DECISION NO. PA81-3051	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
2" pumps - non-metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blasters' helpers, Power buggies, walk along hoist	8.69	.80	1.10		
Plasterers' tenders, blasters, and wagon drill operators	8.84	.80	1.10		
Remainder of County; Building					
Unskilled Laborers	10.87	.80	1.10		
Semi skilled laborers, pneumatic and other mechanical tool operators; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-mentallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	11.07	.80	1.10		
Plasterers' tenders, blaster, wagon drill operators	11.19	.80	1.10		
Mason tenders and scaffold builders	11.27	.80	1.10		
LATHERS:					
Pittston, Avoca, Dupont & Duryea	11.54		.10		.01
Remainder of County	11.43		.35		.01

DECISION NO. PA81-3051	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LEADBURNERS	10.75	.40	.25	f	.01
LINE CONSTRUCTION:					
Linemen, Dynamitemen, Heavy equipment operator	13.37	.55	3%		3/8%of1%
Groundman	8.97	.55	3%		3/8%of1%
Winch truck driver	9.38	.55	3%		3/8%of1%
MARBLE SETTERS:					
Pittston & Hazleton	12.80	1.05	.95		
Remainder of County	12.45		.95		
MILLWRIGHTS	14.42	.70	.90		.05
PAINTERS:					
Pittston:					
Brush and Roller	11.35		1.20		
Structural Steel	12.35		1.20		
Remainder of County:					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
PILEDRIVERMEN	12.97	3.13	1.40	g	.13
PLASTERERS:					
Hazleton	13.50				.01
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	13.50				.01
Remainder of County	12.78				
PLUMBERS	13.59	.95	1.55		.10
POWER EQUIPMENT OPERATORS:					
GROUP 1	13.41	7.9%	10.3%	a	1.8%
GROUP 2	12.85	7.9%	10.3%	a	1.8%
GROUP 3	11.97	7.9%	10.3%	a	1.8%
GROUP 4	11.20	7.9%	10.3%	a	1.8%
GROUP 5	10.72	7.9%	10.3%	a	1.8%
GROUP 6	9.80	7.9%	10.3%	a	1.8%
GROUP 7	13.39	7.9%	10.3%	a	1.8%
GROUP 7-A	13.64	7.9%	10.3%	a	1.8%
GROUP 7-B	13.89	7.9%	10.3%	a	1.8%

DECISION NO. PA81-3051

POWER EQUIPMENT OPERATORS - CLASSIFICATIONS

GROUP 1 - Machines doing hook work; any machine handling machinery; Cable spinning machines; Helicopters; Machines similar to above

GROUP 2 - All types of Cranes & backhoes; Cableways; Draglines; Keystones; All types of shovels; Derricks; Trench Shovels; Trenching machines; Hoists with two towers; Pavers, 21E & over; All types of overhead cranes; Building hoists (double drum); Gradalls; Mucking machines in tunnel; All front end loaders, 3½ cu. yds. & over; Tandem scrapers; Pippin type backhoes; Boat captains; Batch plant operators (concrete); Drills; Self-contained rotary drills; Fork lifts, 20 ft. lift & over; Machines similar to above

GROUP 3 - Conveyors; Building hoists (single drum); Scrapers & Tournapulls; Spreaders; High or low pressure boilers; Concrete pumps; Well drillers; Bulldozers & tractors; Asphalt plant engineers; Roller (high grade finishing); Ditch witch type trencher; All loaders under 3½ cu. yds.; Mechanic-welder; Motor patrols; Driller helper-self contained rotary drills; Core drill operator; Forklift trucks, under 20 ft. lift; Machines similar to above.

GROUP 4 - Welding machines; Well points; Compressors; Pumps; Heaters; Farm tractors; Form line graders; Fine grade machines; Road finishing machines; Concrete breaking machines; rollers; seaman pulverizer mixer; power broom; seeding spreaders; tireman (for power equipment); machines similar to above

GROUP 5 - Fireman, Grease truck

GROUP 6 - Oilers & deck hands (personnel boats); core drill helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.); 100 ft and over

GROUP 7-A - 150 ft and over

GROUP 7-B - 200 ft and over

DECISION NO. PA81-3051

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Composition and Kettlemen	11.15	.90	.85		
SHEET METAL WORKERS	13.21	.80	.86		.04
SOFT FLOOR LAYER	10.98	.70	.90		.05
STEAMFITTERS	13.59	.70	1.80		.10
SPRINKLER FITTERS	15.56	.95	1.40		.08
TRUCK DRIVERS:					
Pittston:					
Class 1	11.07				
Class 2	11.14				
Class 3	11.63				
Remainder of County:					
Pickup, service dump and flat including 2 license	8.07	h	j		
All trucks over 2 license	8.12	h	j		
Fork lifts; Tow motors; tired loaders	8.08	h	j		
WELDERS: Recieve rate for craft					

TRUCK DRIVER CLASSIFICATIONS
PITTSTON

Class 1: Helper; Stake body truck (single axle dumpster)

Class 2: Dump trucks; Tandem and batch trucks; Semi-trailers; Agitator mixer trucks; Ready mix and dumpcrete type vehicles asphalt distributors; farm tractor when used for transportation; Stake body truck (tandem)

Class 3: Euclids type; Off-highway equipment - back or belly dump trucks and double-hitched equipment; Straddle (Ross Carrier); Low-bed trailers

DECISION NO. PA81-3051

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: C and D

c. 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.

d. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

e. Employer contributes $2.95 per hour to Health and Welfare and Pension Fund.

f. Paid Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month

j. $25.00 per month to employees employed for over 13 weeks.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(i)(ii)).

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD81-5150 DATE: Date of Publication
Supersedes Decision No. SD81-5121 dated May 22, 1981, in 46 FR 28130
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.40	.60	$1.50		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; Stonemasons	13.60	.55	.75		
CARPENTERS:					
Carpenters, Piledrivers, Drywall, and Acoustical	11.86		.20		.05
Millwrights	12.82		.20		.05
CEMENT MASONS	12.20				
ELECTRICIANS:					
Electricians	12.55	.50	3%+1.15	6%	1%
Cable Splicers	13.81	.50	3%+1.15	6%	1%
GLAZIERS	8.54				
LABORERS:					
Laborers	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator (Nozzleman Gunite, Sandblast and Shotcrete)	4.60				
LATHERS	9.96				.01
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	10.99				.01
PLUMBERS; Steamfitters	12.59	.55	.75	.82	.03
SHEET METAL WORKERS	11.45		.51	1.25	.05
SPRINKLER FITTERS	13.93	.95	1.40		.08

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION -

STATE: South Dakota COUNTIES: Meade and Pennington
DECISION NUMBER: SD81-5151 DATE: Date of Publication
Supersedes Decision Number SD81-5122 dated May 22, 1981, in 46 FR 28131
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
ASBESTOS WORKERS	$14.40	.60	$1.50		
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; Stonemasons	13.05		.50		
CARPENTERS:					
Carpenters; Acoustical Drywall Applicators	10.81	.30			.05
Piledrivermen	11.06	.30			.05
Millwrights	11.31	.30			.05
CEMENT MASONS	10.80	.65	.40		
ELECTRICIANS:					
Electricians	12.35	.75	3%+1.00	6%	1%
Cable Splicers	12.90	.75	3%+1.00	6%	1%
IRONWORKERS	11.05	.70	1.25		.25
LABORERS:					
Laborers; Power Tool Operator (all mechanical, air, gas or electric tools, including self-propelled buggies, wagon and air track drills); Pipelayer (non-metallic); Sandblasting	6.62	.50	.15		
Mortar Mixer, Mason Tender; Plaster Tender	6.77	.50	.15		
Gunnite Nozzleman, Powderman, Miner, Timberman	7.12	.50	.15		
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	10.20				
PLUMBERS; Steamfitters	12.09	.75	.60		.03
SHEET METAL WORKERS	11.85		.36	.72	.07
SPRINKLER FITTERS	13.93	.95	1.40		.08

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

[FR Doc. 81-25595 Filed 9-3-81; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
September 4, 1981

Part III

Department of the Interior

Fish and Wildlife Service

Amendments to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Amendments to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in the United States include a list of wildlife and plant species for which import and export are controlled. These are species that have been included in appendices to CITES in accordance with procedures set forth in this treaty.

This notice amends the list of species in 50 CFR Part 23, incorporating changes in Appendices I and II adopted at the recent meeting of countries that are party to CITES. The Department of the Interior has determined that the U.S. would enter no reservations on these amendments, which means that this country will honor the CITES requirements for international trade in all species added to the appendices at that meeting.

EFFECTIVE DATE: September 4, 1981.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received concerning this notice are available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The Service published a notice of changes in the appendices in the April 7, 1981, **Federal Register** (46 FR 20713). The notice contained a list of amendments to Appendices I and II that were adopted at the Third Meeting of the Conference of the Parties to CITES, held on February 25 to March 8, 1981, at New Delhi, India.

Reservations

Article XV of CITES provides that any party country may enter a reservation on an amendment during the 90 days immediately following its adoption. The effect of a reservation is that the country entering it is considered not to be a party to CITES for the species in question. The deadline for existing parties to enter reservations on amendments adopted at New Delhi was June 6, 1981.

The Service's **Federal Register** notice of April 7, 1981, invited comments from the public on whether the U.S. should enter a reservation on any of these new amendments. By the end of the comment period on May 8, 1981, the Service received a total of 688 letters from persons and organizations opposing any reservations, and 483 letters from persons and organizations requesting that the U.S. enter a reservation on the inclusion of the order Psittaciformes (parrots and related species) to Appendix II. The Service wishes to thank the many persons who submitted comments.

Representatives of the various Federal agencies concerned with U.S. implementation of CITES met on May 14, 1981, to discuss this issue. Their concensus view was that the U.S. should not enter any reservations, but that it should communicate to foreign governments its serious concern about the listing of psittacine birds. Specific points raised by the public and agencies are discussed below.

The purpose of CITES is to regulate international trade in certain species of wild animals and plants in order to protect them from over-exploitation. Article II of CITES provides that Appendix II is to include (a) all species that are potentially threatened with extinction unless international trade is controlled, and (b) other species that must be regulated in order to effectively control international trade in potentially threatened species.

Both the U.S. and the United Kingdom submitted proposals to list the order Psittaciformes in Appendix II. However, the U.S. withdrew its proposal at New Delhi following a reassessment of law enforcement needs. The Service determined that the listing of most psittacine species was unnecessary as a measure to effectively control international trade in those particular species of psittacines that are currently or potentially threatened. The U.S. position at New Delhi was that this control is better achieved by providing training and identification aids to the officers at ports of entry than by broadly listing all species. The U.S. pointed out that even if export permits were required for all psittacine birds, the inability of customs inspectors to identfy species would make this broad listing ineffective as a means of controlling trade in certain species that need protection. The countries that favored the proposal apparently felt it was adequate, if not on scientific grounds, on the grounds of the inability of the average customs officer to distinguish between species.

Despite opposition by the U.S., Switzerland, Lichtenstein, and Chile, the parties overwhelmingly voted to adopt the U.K. proposal. Among the 32 parties favoring the proposal were many countries that export psittacine birds. India, the host for the meeting, initially opposed the proposal, but later voted in favor after the U.K. agreed to delete a common Indian parakeet from the listing.

The need to list species because of similarity in appearance to other potentially threatened species depends on the identification skills of customs officers. Although some U.S. officers are trained in this area, those of most other countries are not. Many other parties believe that the only solution is to list the entire order. They also point to evidence of massive trade in psittacine birds as a potential threat to their survival. On close examination, the U.S. found sufficient data to propose only 21 potentially threatened species of psittacine birds for Appendix II. The U.S. identified another 13 species it favored listing because of similarity in appearance.

The listing of psittacine birds would affect persons involved in importing or exporting these species to the extent that they would have to obtain a permit or certificate from a designated government official in the country of export or reexport for each shipment. Because the listing concerns only import and export, it would have no direct effect on commerce or breeding of psittacine birds within the U.S. After June 6, 1981, all party countries that do not enter reservations should require exporters to obtain CITES permits. Approximately 84 percent of all psittacine birds currently imported into the U.S. originate in countries that are party to CITES. Very few of the 69 parties are likely to have entered reservations, including those parties that export these birds.

Reserving might do very little to relieve importers in the U.S. from the need for foreign export permits because the Lacey Act (18 U.S.C. 42–44) makes it a Federal offense to import into the U.S. any wildlife taken or exported in violation of foreign conservation laws (including CITES permit requirements of other countries). A reservation by the U.S. also would provide exporters in this country with little relief from the need for U.S. export documents. Receiving countries that are party to CITES will

generally require equivalent documentation from the U.S. if it enters a reservation, because the CITES parties have agreed to allow trade with nonparties (including reserving parties) only if they issue documents containing all of the information required in CITES permits or certificates.

If the U.S. entered a reservation, both importers and exporters would be in a confusing situation where CITES requirements are imposed by other countries and not by the U.S. This could lead persons to unintentionally violate laws of foreign countries that honor the listing, as indicated by the large number of commenters who appear to believe that a reservation would relieve them from CITES permits.

CITES requirements might encourage smuggling by some persons who have difficulty obtaining export permits from other countries, whether the U.S. enters a reservation or not. It has been argued by some persons that this could increase the likelihood that exotic Newcastle disease is introduced because smuggled birds are not quarantined. On the other hand, Customs and Fish and Wildlife Service agents are likely to obtain better foreign documentation on the identity and legality of shipments as a result of this listing.

The entering of a reservation could interfere with one of the major U.S. goals under CITES: full and active participation in this treaty by all countries. Other countries might be less responsive to U.S. requests to participate if they knew the U.S. had entered a reservation. This applies both to countries that have not yet ratified and to party countries that have taken harmful reservations, which we would like to see them withdraw.

On the other hand, the entering of a reservation could serve another major U.S. goal: to insure that the list of species in the CITES appendices is appropriate in terms of the purpose of CITES. A reservation might help arrest the trend of parties toward mass listing of species.

The Department of State, as a matter of general policy, does not favor the U.S. taking reservations under any treaty except in those cases where, absent a reservation, the treaty would conflict with U.S. law or be impossible to implement. In this instance, the Department of State recommended that it would not be in the best interests of the U.S. to enter a reservation.

In view of these considerations, the Department of the Interior determined not to enter a reservation on the listing of psittacine birds, but to inform other countries about this country's displeasure with the listing through diplomatic channels. A message is being prepared, in consultation with the Department of State, to express the concern that this listing raises serious problems regarding the purposes and implementation of CITES, and that it should be reconsidered during the review of appendices to be concluded at the next meeting of party countries.

Revision of List

The present notice amends the list of species contained in Part 23 of Title 50, Code of Federal Regulations. This list was previously revised on April 3, 1980 (45 FR 22848) to incorporate amendments to Appendices I and II adopted at the Second Meeting of the Conference of the Parties in San Jose, Costa Rica. In addition to incorporating amendments adopted at New Delhi, this notice corrects several minor errors in the list of species contained in Part 23.

The U.S., as a party to CITES, is obligated to honor the treaty's requirements for all amendments that have entered into effect. By incorporating the list of species in the Code of Federal Regulations, the Service intends to inform the public about measures required under this international agreement. The present notice is issued for the convenience of the public, which otherwise would lack information about these measures. Accordingly, this notice is not a major action under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601).

This notice is issued under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Amendments to the appendices contained in this list have entered into effect by the terms of CITES and cannot be the subject of reservations by the U.S. at this time. Earlier Federal Register notices allowed an opportunity for comment on these amendments. Therefore, this amendment of the Code of Federal Regulations is made effective on September 4, 1981.

Dated: July 9, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

PART 23—ENDANGERED SPECIES CONVENTION

Part 23 of Title 50 of the Code of Federal Regulations is amended by revising the list of species in § 23.23 to read as follows:

§ 23.23 Species listed in Appendices I, II, and III.

* * * * *

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Monotremata:	Monotremes:		
Zaglossus spp	Spiny anteaters	II	2/4/77
Order Marsupialia:	Marsupials:		
Bettongia spp (except species listed below)	Rat kangaroos	I	6/26/79
B. penicillata	Brush-tailed rat kangaroo, Woylie	I	7/1/75
B. lesuer	Lesueur's rat kangaroo, Boodie	I	7/1/75
B. tropica	Queensland rat kangaroo, Northern rat kangaroo.	I	7/1/75
Burramys parvus	Mountain pigmy possum	II	7/1/75
Caloprymnus campestris	Desert rat kangaroo	I pe	7/1/75
Chaeropus ecaudatus	Pig-footed bandicoot	I pe	7/1/75
Dendrolagus bennettianus	Bennett's tree kangaroo, Dusky tree kangaroo.	II	6/26/79
D. inustus	Tree kangaroo	II	7/1/75
D. lumholtzi	Lumholtz's tree kangaroo	II	6/26/79
D. ursinus	Grizzled tree kangaroo	II	7/1/75
Lagorchestes hirsutus	Western hare-wallaby, Wurrup	I	7/1/75
Lagostrophus fasciatus	Banded hare-wallaby, Munning	I	7/1/75
Lasiorhinus krefftii	Queensland hairy-nosed wombat	I	7/1/75
Macrotis lagotis	Rabbit bandicoot, Bilby	I	7/1/75
M. leucura	Lesser rabbit bandicoot, Yallara	I	7/1/75
Onychogalea fraenata	Bridled nail-tailed wallaby	I	7/1/75
O. lunata	Crescent nail-tailed wallaby	I	7/1/75
Perameles bougainvillei	Barred bandicoot, Long-nosed bandicoot, Marl.	I	7/1/75
Phalanger maculatus	Spotted cuscus	II	6/26/79
P. orientalis	Gray cuscus	II	6/26/79
Sminthopsis longicaudata	Long-tailed marsupial mouse, Long-tailed dunnart.	I	7/1/75
S. psammophila	Large desert marsupial mouse, Sandhill dunnart.	I	7/1/75
Thylacinus cynocephalus	Thylacine, Tasmanian wolf	I pe	7/1/75
Order Insectivora:	Insectivores:		
Erinaceus frontalis	African hedgehog	II	7/1/75
Order Chiroptera:	Bats:		
Vampyrops lineatus (all parts and derivatives).	White-lined bat	III (Uruguay)	7/14/76

Species	Common name	Appendix	Date listed (month/day/year)
Order Primates:	Primates: Monkeys, Apes, etc:		
All species except those in app. I or with earlier date in app. II.		II	2/4/77
Allocebus spp	Hairy-eared dwarf lemur	I	7/1/75
Alouatta palliata (=villosa)	Mantled howler monkey	I	7/1/75
Ateles geoffroyi frontatus	Black-handed spider monkey	I	7/1/75
A. geoffroyi panamensis	Black-handed spider monkey	I	7/1/75
Avahi spp	Avahis, Woolly lemurs	I	7/1/75
Brachyteles arachnoides	Woolly spider monkey	I	7/1/75
Cacajao spp	Uakaris	I	7/1/75
Callimico goeldii	Goeldi's monkey, Callimico	I	7/1/75
Callithrix aurita	White-eared marmoset	I	2/4/77
C. flaviceps	Buff-headed marmoset	I	2/4/77
Cebus capucinus	White-throated capuchin	II	7/1/75
Cercocebus galeritus galeritus	Tana River mangabey, Agile mangabey	I	7/1/75
Cercopithecus diana	Diana monkey	I	2/4/77
Cheirogaleus spp	Dwarf lemurs	I	7/1/75
Chiropotes albinasus	White-nosed saki	I	7/1/75
Colobus badius kirkii	Zanzibar red colobus	I	7/1/75
C. badius rufomitratus	Tana River red colobus	I	7/1/75
C. badius gordonorum	Uhehe red colobus	II	7/1/75
C. verus	Olive colobus	II	7/1/75
Daubentania madagascariensis	Aye-aye	I	7/1/75
Hapalemur spp	Gentle lemurs	I	7/1/75
Hylobates spp	Gibbons	I	7/1/75
Gorilla gorilla	Gorilla	I	7/1/75
Indri spp	Indri	I	7/1/75
Lemur spp	Lemurs	I	7/1/75
Lepilemur sp	Sportive or weasel lemur	I	7/1/75
Leontopithecus (=Leontideus) spp	Golden lion tamarin	I	7/1/75
Loris tardigradus	Slender loris	I	7/1/75
Macaca silenus	Lion-tailed macaque	I	7/1/75
M. sylvanus	Barbary ape	II	7/1/75
Microcebus spp	Mouse lemurs	I	7/1/75
Nasalis larvatus	Proboscis monkey	I	7/1/75
Nycticebus coucang	Slow loris	II	7/1/75
Pan paniscus	Pygmy chimpanzee, Bonobo	I	7/1/75
P. troglodytes	Chimpanzee	I	7/1/75
Papio (=Mandrillus) leucophaeus	Drill	I	2/4/77
P. (=Mandrillus) sphinx	Mandrill	I	2/4/77
Phaner sp	Fork or fork-marked mouse lemur	I	7/1/75
Pongidae spp (all species in family except those with earlier date).	Chimpanzees, Gorillas, Orangutans	I	2/4/77
Pongo pygmaeus abelii	Orangutan	I	7/1/75
P. pygmaeus pygmaeus	Orangutan	I	7/1/75
Presbytis entellus	Gray or common Indian langur	I	7/1/75
P. geei	Golden langur	I	7/1/75
P. johnii	Nilgiri langur	II	7/1/75
P. pileatus	Capped langur	I	7/1/75
P. potenziana	Long-tailed langur, Mentawai leaf monkey	I	2/4/77
Propithecus spp	Sifakas	I	7/1/75
Pygathrix nemaeus	Douc langur	I	7/1/75
Rhynopithecus roxellanae	Snub-nosed langur	II	7/1/75
Saguinus bicolor	Pied tamarin	I	2/4/77
S. leucopus	White-footed tamarin, Silvery-brown bare-face tamarin.	I	2/4/77
S. oedipus (including S.o. geoffroyi)	Cotton-top tamarin	I	2/4/77
Saimri oerstedii	Red-backed squirrel monkey	I	7/1/75
Simias concolor	Pagai Island langur	I	7/1/75
Symphalangus syndactylus	Siamang	I	7/1/75
Order Edentata:	Anteaters, Sloths, Armadillos:		
Bradypus boliviensis	Three-toed sloth	II	7/1/75
B. griseus (all parts and derivatives)	Three-toed sloth	III (Costa Rica)	10/28/76
Choloepus hoffmanni (all parts and derivatives).	Two-toed sloth	III (Costa Rica)	10/28/76
Cabassous centralis (all parts and derivatives).	Five-toed armadillo	III. (Costa Rica)	10/28/76
C. gymnurus (tatouay) (all parts and derivatives).	Naked-tailed armadillo	III. (Uruguay)	7/14/76
Myrmecophaga tridactyla	Giant Anteater	II	7/1/75
Priodontes giganteus (=maximus)	Giant armadillo	I	7/1/75
* *Tamandua tetradactyla* (all parts and derivatives).	Tamandua, Collared anteater	III (Guatemala)	4/23/81
T. tetradactyla chapadensis	Tamandua, Collared anteater	II	7/1/75
Order Pholidota:	Pangolins, Scaly Anteaters:		
Manis crassicaudata	Thick-tailed or Indian pangolin	II	7/1/75
M. gigantea (all parts and derivatives)	Giant pangolin	III (Ghana)	2/26/76
M. javanica	Malayan pangolin	II	7/1/75
M. longicaudata (all parts and derivatives)	Long-tailed pangolin	III (Ghana)	2/26/76
M. pentadactyla	Chinese pangolin	II	7/1/75
M. temminckii	Common African ground pangolin	I	7/1/75
M. tricuspis (all parts and derivatives)	African tree pangolin	III (Ghana)	2/26/76
Order Lagomorpha:	Rabbits, Hares:		
Caprolagus hispidus	Hispid hare, Assam rabbit		7/1/75
Nesolagus netscheri	Sumatra short-eared rabbit	I	7/1/75
Romerolagus diazi	Mexican volcano rabbit	I	7/1/75
Order Rodentia:	Rodents:		
Anomalurus spp. species native to Ghana, (all parts and derivatives).	Scaly-tailed flying squirrels	III (Ghana)	2/26/76
Chinchilla spp. (populations of South America except subspecies below).	Chinchilla	I	2/4/77
C. brevicaudata boliviana	Chinchilla	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Coendou spinosus (all parts and derivatives)	Prehensile-tailed porcupine	III (Uruguay)	7/14/76
Cynomys mexicanus	Mexican prairie dog	I	7/1/75
Dipodomys phillipsii phillipsii	Phillips kangaroo rat	II	7/1/75
Epixerus ebii (all parts and derivatives)	African palm squirrel	III (Ghana)	2/26/76
Hystrix, spp. species native to Ghana (all parts and derivatives).	Crested porcupines	III (Ghana)	2/26/76
Idiurus spp. species native to Ghana (all parts and derivatives).	Pigmy flying squirrels	III (Ghana)	2/26/76
Lariscus hosei	Four-striped or Bornean black-striped ground squirrel.	II	7/1/75
Leporillus conditor	Australian stick-nest rat	I	7/1/75
Notomys spp. (except species listed below)	Australian hopping mice	II	6/28/79
N. aquilo	Australian northern hopping mouse, Cape York hopping mouse.	II	7/1/75
Pseudomys fumeus	Smokey mouse	I	7/1/75
P. praeconis	Shark Bay mouse	I	7/1/75
P. shortridgei	Western pseudo rat, Shortridge's mouse.	II	7/1/75
Ratufa spp.	Giant squirrels	II	7/1/75
Sciurus deppei (all parts and derivatives)	Deppe's squirrel	III (Costa Rica)	10/28/76
Xeromys myoides	False water rat	I	7/1/75
Zyzomys pedunculatus	McDonnell Range rock rat	I	7/1/75
Order Cetacea:	Whales, Porpoises, Dolphins:		
All species except those in app. I or with earlier date in app. II.		II	6/28/79
Balaena mysticetus	Bowhead whale	I	7/1/75
Balaenoptera borealis	Sei whale	I	2/4/77
B. musculus	Blue whale	I	7/1/75
B. physalus	Fin whale	I	2/4/77
Eubalaena spp.	Right whale	I	7/1/75
Eschrichtius robustus (glaucus)	Gray whale	I	7/1/75
Lipotes vexillifer	White flag dolphin, Chinese river dolphin.	I	6/28/79
Megaptera novaeangliae	Humpback whale	I	7/1/75
Monodon monoceros	Narwhal	II	11/16/75
Neophocaena phocaenoides	Finless porpoise	I	6/28/79
Phocoena sinus	Gulf of California harbor porpoise, Cochita.	I	6/28/79
Physeter catodon	Sperm whale	I	2/4/77
Platanista spp.	Ganges and Indus River Dolphins	I	7/1/75
Pontoporia (Stenodelphis) blainvillei	LaPlata River dolphin	II	7/14/76
Sotalia spp.	Humpbacked dolphins	I	6/28/79
Sousa spp.	Humpbacked dolphins	I	6/28/79
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Acinonyx jubatus	Cheetah	I	7/1/75
Ailurus fulgens	Lesser panda	II	7/1/75
Aonyx microdon	West African "clawless" otter	I	7/1/75
Bassaricyon gabbii (all parts and derivatives)	Bushy-tailed olingo	III (Costa Rica)	10/28/76
Bassariscus sumichrasti (all parts and derivatives).	Cacomistle	III (Costa Rica)	10/28/76
Canis lupus (all subspecies and populations except those listed below).	Gray wolf	II	2/4/77
C. lupus (India, Pakistan, Bhutan and Nepal populations).	Gray wolf	I	2/4/77
C. lupus crassodon	Gray wolf	II	7/1/75
C. lupus irremotus	Gray wolf	II	7/1/75
C. lupus monstrabilis	Gray wolf	II	7/1/75
C. lupus pallipes	Gray wolf	II	7/1/75
Chrysocyon brachyurus	Maned wolf	II	7/1/75
Conepatus humboldti	Humboldt's hognose skunk	II	6/28/79
Cryptoprocta ferox	Fossa	II	2/4/77
Cuon alpinus	Dhole	II	7/1/75
Cynogale bennetti	Otter civet	II	7/1/75
Dusicyon culpaeus	Culepo fox	II	6/28/79
D. fulvipes	Chiloe fox	II	6/28/79
D. griseus	Chico gray fox, Argentine gray fox	II	6/28/79
Enhydra lutris nereis	Southern sea otter	I	7/1/75
Eupleres goudoti	Malagasy mongoose	II	2/4/77
E. major	Malagasy mongoose	II	2/4/77
Felidae spp. (all species in Family except those in app. I or *Felis catus*).	Cats (not including house cats)	II	2/4/77
Felis bengalensis bengalensis	Leopard cat	I	7/1/75
F. caracal (Asian population)	Caracal	I	7/1/75
F. concolor coryi	Florida puma	I	7/1/75
F. concolor costaricensis	Costa Rican puma	I	7/1/75
F. concolor couguar	Eastern puma, Adirondack cougar	I	7/1/75
F. jacobita	Andean cat	I	7/1/75
F. (Lynx) rufa escuinapae	Mexican bobcat	I	7/1/75
F. marmorata	Marbled cat	I	7/1/75
F. nigripes	Black-footed cat	I	7/1/75
F. pardalis mearnsi	Ocelot	I	7/1/75
F. pardalis mitis	Brazilian ocelot	I	7/1/75
F. planiceps	Flat-headed cat	I	7/1/75
F. rubiginosa (Indian population)	Rusty spotted cat	I	2/4/77
F. temminicki	Asian golden cat	I	7/1/75
F. tigrina oncilla	Tiger cat	I	7/1/75
F. wiedii nicaraguae	Central American margay	I	7/1/75
F. wiedii salvinia	Guatemalan margay	I	7/1/75
F. yagouaroundi cacomitli	Gulf Coast jaguarundi	I	7/1/75
F. yagouaroundi fossata	Guatemalan jaguarundi	I	7/1/75
F. yagouaroundi panamensis	Panamanian jaguarundi	I	7/1/75
F. yagouaroundi tolteca	Sinaloan jaguarundi	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Fennecus zerda (all parts and derivatives)	Fennec fox	III (Tunisia)	4/22/76
Fossa fossa	Fanaloka	II	2/4/77
Galictis allamandi (all parts and derivatives)	Grison	III (Costa Rica)	10/28/76
Hemigalus derbyanus	Banded palm civet	II	2/4/77
Helarctos malayanus	Sun bear	I	7/1/75
Hyaena brunnea	Brown hyaena	I	7/1/75
Lutrinae spp. (all species in subfamily except those in app. I).	Otters	II	2/4/77
Lutra felina	Marine otter	I	7/1/75
L. longicaudis	Long-tailed or neotropical otter	I	7/1/75
L. lutra	European otter	I	2/4/77
L. provocax	Southern river otter of South America	I	7/1/75
Mellivora capensis (all parts and derivatives)	Honey badger, Ratel	III (Ghana and Botswana)	2/26/76
Mustela nigripes	Black-footed ferret	I	7/1/75
Nasua nasua solitaria (all parts and derivatives).	Coatimundi	III (Uruguay)	7/14/76
Neofelis nebulosa	Clouded leopard	I	7/1/75
Panthera leo persica	Indian lion	I	7/1/75
P. onca	Jaguar	I	7/1/75
P. pardus	Leopard	I	7/1/75
P. tigris (all subspecies except *P. tigris altaica*).	Tiger	I	7/1/75
P. uncia	Snow leopard	I	7/1/75
Prionodon linsang	Banded linsang	II	7/1/75
P. pardicolor	Spotted linsang	I	7/1/75
Proteles cristatus (all parts and derivatives)	Aardwolf	III (Botswana)	4/24/78
Pteronura brasiliensis	Giant otter	I	7/1/75
Selenarctos thibetanus (except subspecies listed below).	Asiatic black bear	I	6/28/79
S. thibetanus gedrosianus	Baluchistan black bear	I	2/4/77
Speothos venaticus	Bush dog	I	2/4/77
Tremarctos ornatus	Spectacled bear	I	2/4/77
Ursus arctos (all North American subspecies except that listed below).	Brown bear, Grizzly	II	7/1/75
U. arctos (Italian population)	European Brown bear	I	7/1/75
U. arctos nelsoni	Mexican grizzly bear	I	7/1/75
U. arctos pruinosus	Tibetan blue bear	I	7/1/75
U. arctos isabelinus	Red bear	I	6/28/79
U. (-Thalarctos) maritimus	Polar bear	II	7/1/75
Viverra civetta (all parts and derivatives)	African civet	III (Botswana)	4/24/78
Vulpes cana	Blanford's fox	II	2/4/77
V. velox hebes	Swift fox	I	7/1/75
Order Pinnipedia:	Seals, Sea lions:		
Arctocephalus spp. (except species listed below).	Southern fur seals	II	7/4/77
A. australis	Southern fur seal	II	7/1/75
A. galapagoensis	Galapagos fur seal	II	7/1/75
A. philippii	Juan Fernandez fur seal	II	7/1/75
A. townsendi	Guadalupe fur seal	I	7/1/75
Mirounga angustirostris	Northern elephant seal	II	7/1/75
M. leonina	Southern elephant seal	II	7/1/75
Monachus spp.	Monk seals	I	7/1/75
Odobenus rosmarus (all parts and derivatives).	Walrus	III (Canada)	11/16/75
Order Tubulidentata:	Aardvarks:		
Orycteropus ater	Aardvark	II	7/1/75
Order Proboscidea:	Elephants:		
Elephas maximus	Asian elephant	I	7/1/75
Loxodonta africana	African elephant	II	2/4/77
Order Sirenia:	Dugongs, Manatees:		
Dugong dugon (except for Australian population).	Dugong	I	7/1/75
D. dugon (Australian population)	Dugong	II	7/1/75
Trichechus inunguis	South American or Amazonian manatee	I	7/1/75
T. manatus	West Indian manatee	I	7/1/75
T. senegalensis	West African manatee	II	7/1/75
Order Perissodactyla:	Odd-toed ungulates:		
Equus grevyi	Grevy's zebra	I	6/28/79
E. hemionus (except subspecies listed below).	Asian wild ass	II	7/1/75
E. hemionus hemionus	Asian wild ass	I	7/1/75
E. hemionus khur	Asian wild ass	I	7/1/75
E. przewalskii	Przewalski's horse	I	7/1/75
E. zebra hartmannae	Hartmann's mountain zebra	II	6/28/79
E. zebra zebra	Cape mountain zebra	I	7/1/75
Tapirus bairdii	Central American tapir	I	7/1/75
T. indicus	Asian tapir	I	7/1/75
T. pinchaque	Mountain tapir	I	7/1/75
T. terrestris	South American tapir	II	7/1/75
Rhinocerotidae spp. (all species in the family except those with earlier date on app. I).	Rhinoceroses	I	2/4/77
Ceratotherium simum cottoni	Northern white rhinoceros	I	7/1/75
Diceros bicornis	Black rhinoceros	I	7/1/75
Didermocerus (= Dicerorhinus) sumatrensis	Sumatran rhinoceros	I	7/1/75
Rhinoceros sondaicus	Javan rhinoceros	I	7/1/75
R. unicornis	Great Indian one-horned rhinoceros	I	7/1/75
Order Artiodactyla:	Even-toed Ungulates:		
Addax nasomaculatus	Addax	II	7/1/75
Ammotragus lervia (all parts and derivatives)	Barbary sheep, Aoudad	III (Tunisia)	4/22/76

Species	Common name	Appendix	Date listed (month/day/year)
Antilocapra americana mexicana	Mexican pronghorn	II	7/1/75
A. americana peninsularis	Baja pronghorn	I	7/1/75
A. americana sonoriensis	Sonoran pronghorn	I	7/1/75
Antilope cervicapra (all parts and derivatives).	Blackbuck antelope	III (Nepal)	11/16/75
Axis (=Cervus or Hyelaphus) calamianensis	Calamianes deer	I	7/1/75
A. kuhli	Kuhl's deer, Bawean hog deer	I	7/1/75
A. porcinus annamiticus	Indochina hog deer	I	7/1/75
Babyrousa babyrussa	Babirusa	I	7/1/75
Blastocerus dichotomus	Marsh deer	I	7/1/75
Bison bison athabascae	Woods bison	I	7/1/75
Boocercus (Taurotragus) euryceros (all parts and derivatives).	Bongo antelope	III (Ghana)	2/26/76
Bos gaurus	Seladang, Gaur	I	7/1/75
B. (grunniens) mutus	Wild yak	I	7/1/75
Bubalus bubalis (all parts and derivatives)	Water buffalo	III (Nepal)	11/16/75
B. (Anoa) depressicornis	Lowland anoa	I	7/1/75
B. (Anoa) mindorensis	Tamaraw	I	7/1/75
B. (Anoa) quarlesi	Mountain anoa	I	7/1/75
Capra falconeri (except subspecies listed below).	Markhor	II	7/1/75
C. falconeri chiltanensis	Chiaitan markhor	I	7/1/75
C. falconeri megaceros	Kabal or straight-horned markhor	I	7/1/75
Capricornis sumatraensis	Serow	I	7/1/75
Cervus duvaucelli	Swamp deer	I	7/1/75
C. elaphus bactrianus	Bactrian deer	II	7/1/75
C. elaphus barbarusm (all parts and derivatives).	Barbary deer	III (Tunisia)	4/22/76
C. elaphus hangfu	Kashmir stag	I	7/1/75
C. eldi	Eld's brow-antlered deer	I	7/1/75
Choeropsis liberiensis	Pygmy hippopotamus	II	7/1/75
Dama mesopotamica	Persian fallow deer	I	2/4/77
Damaliscus dorcas dorcas	Bontebok	II	7/1/75
D. lunatus (all parts and derivatives)	Sassaby antelope, Korrigum	III (Ghana)	2/26/76
Gazella dorcus (all parts and derivatives)	Dorcas gazelle	III (Tunisia)	4/22/76
G. gazella cuvieri (all parts and derivatives)	Mountain gazelle	III (Tunisia)	4/22/76
G. leptoceros (all parts and derivatives)	Slender-horned gazelle	III (Tunisia)	4/22/76
Hippocamelus antisensis	North Andean huemal	I	7/1/75
H. bisulcus	South Andean huemal	I	7/1/75
Hippopotamus amphibius (all parts and derivatives).	Hippopotamus	III (Ghana)	2/26/76
Hippotragus equinus	Roan antelope	II	2/26/76
H. niger variani	Giant sable antelope	I	7/1/75
Hyemoschus aquaticus (all parts and derivatives).	Water chevrotain	III (Ghana)	2/26/76
Kobus leche	Lechwe	II	7/1/75
Lama guanicoe	Guanaco	II	8/12/78
Mazama americana cerasina (all parts and derivatives).	Red brocket deer	III (Guatemala)	4/23/81
Moschus moschiferus (Himalayan population).	Musk deer	I	7/1/75
Moschus spp. (all except population on app. I).	Musk deer	II	2/16/79
Nemorhaedus goral	Goral	I	7/1/75
Novibos (=Bos) sauveli	Kouprey	I	7/1/75
Odocoileus virginianus mayensis (all parts and derivatives).	Whitetail deer	III (Guatemala)	4/23/81
Oryx dammah	Scimitar-horned oryx	II	7/1/75
O. leucoryx	Arabian oryx	I	7/1/75
Ovis ammon (except subspecies listed below).	Argali	II	7/1/75
O. ammon hodgsoni	Tibetan argali	I	7/1/75
O. canadensis	Bighorn sheep	II	7/1/75
O. orientalis ophion	Cyprian red sheep	I	7/1/75
O. vignei	Shapo, Urial	I	7/1/75
Ozotoceros bezoarticus	Pampas deer	I	7/1/75
Pantholops hodgsoni	Tibetan antelope	I	7/1/75
Pudu mephistophiles	Pudu	II	7/1/75
P. pudu	Pudu	I	7/1/75
Rupicapra rupicapra ornata	Apennian chamois	I	7/1/75
Sus salvanius	Pygmy hog	I	7/1/75
Tayassu tajacu (all parts and derivatives)	Collared peccary	III (Guatemala)	4/23/81
Tetracerus quadricornis (all parts and derivatives).	Four-horned antelope	III (Nepal)	11/16/75
Tragelaphus spekei (all parts and derivatives).	Sitatunga antelope	III (Ghana)	2/26/75
CLASS AVES:	BIRDS:		
Order Sphenisciformes:	Penguins:		
Spheniscus demersus	Jackass penguin, Blackfooted Cape penguin.	II	7/1/75
S. humboldti	Humboldt pehguin	I	6/6/81
Order Rheiformes	Rheas:		
Pterocnemia pennata (except subspecies listed below).	Lesser rhea	I	6/28/79
P. pennata garleppi	Lesser rhea	I	7/1/75
P. pennata pennata	Darwin's rhea	I	7/1/75
Rhea americana (except subspecies listed below: all parts and derivatives).	Greater or common rhea	III (Uruguay)	7/14/76
R. americana albescens	Greater rhea	II	7/1/75
Order Tinamiformes:	Tinamous:		
Rhynchotus rufescens maculicollis	Red-winged tinamou	II	7/1/75
R. rufescens pallescens	Southern red-winged tinamou	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
R. rufescens rufescens	Western red-winged tinamou	II	7/1/75
Tinamus solitarius	Solitary tinamou	I	7/1/75
Order Podicipediformes:	Grebes:		
Podilymbus gigas	Atitlan grebe	I	7/1/75
Order Procellariformes:	Albatrosses, Shearwaters, Petrels:		
Diomedea albatrus	Short-tailed albatross	I	7/1/75
	Tropicbirds, Pelicans, Frigatebirds:		
Fregata andrewsi	Andrews frigate bird	I	7/1/75
Pelecanus crispus	Dalmatian pelican	II	7/1/75
Sula abbotti	Abbott's booby	I	7/1/75
Order Ciconiiformes:	Herons, Storks, Ibises, Flamingos:		
Ardea goliath (all parts and derivatives)	Goliath heron	III (Ghana)	2/26/76
Bubulcus (=Ardeola) ibis (all parts and derivatives).	Cattle egret	III (Ghana)	2/26/76
Casmerodius albus (all parts and derivatives).	Great white egret	III (Ghana)	2/26/76
Ciconia ciconia boyciana	Oriental white stork	I	7/1/75
C. nigra	Black stork	II	7/1/75
Egretta garzetta (all parts and derivatives)	Little egret	III (Ghana)	2/26/76
Ephippiorhynchus senegalensis (all parts and derivatives).	Saddlebill stork	III (Ghana)	2/26/76
Geronticus calvus	Southern bald ibis	II	7/1/75
G. eremita	Hermit ibis	I	6/28/79
Hagedashia hagedash (all parts and derivatives).	Hadada ibis	III (Ghana)	2/26/76
Lampribis rara (all parts and derivatives)	Spotted-breasted ibis	III (Ghana)	2/26/76
Leptoptilos crumeniferus (all parts and derivatives).	Marabou stork	III (Ghana)	2/26/76
Nipponia nippon	Japanese crested ibis	I	7/1/75
Phoenicoparrus andinus	Andean flamingo	II	7/1/75
P. jamesi	James flamingo	II	7/1/75
Phoenicopterus ruber chilensis	Chilean flamingo	II	7/1/75
P. ruber ruber	American flamingo	II	6/28/79
Platalea leucorodia	White spoonbill	II	7/1/75
Threskiornis aethiopica (all parts and derivatives).	Sacred ibis	III (Ghana)	2/26/76
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
Anatidae, all species in family native to Ghana (all parts and derivatives).		III (Ghana)	2/26/76
Anas aucklandica aucklandica	Auckland Island flightless teal	II	7/1/75
A. aucklandica chlorotis	New Zealand brown teal	II	7/1/75
A. aucklandica nesiotis	Campbell Island flightless teal	I	7/1/75
A. bernieri	Madagascar teal	II	7/1/75
A. laysanensis	Laysan duck	I	7/1/75
A. oustaleti	Marianas mallard	I	7/1/75
Anser albifrons gambelli	Tule goose	II	7/1/75
Branta canadensis leucopareia	Aleutian goose	I	7/1/75
B. ruficollis	Red-breasted goose	II	7/1/75
B. sandvicensis	Hawaiian goose, Nene	I	7/1/75
Cairina scutulata	White-winged duck	I	7/1/75
Coscoroba coscoroba	Coscoroba	II	7/1/75
Cygnus bewickii jankowskii	Jankowski's swan	II	7/1/75
C. melanocoryphus	Black-necked swan	II	7/1/75
Dendrocygna arborea	Cuban tree duck, West Indian whistling duck.	II	7/1/75
Rhodonessa caryophyllacea	Pink-headed duck	I	7/1/75
Sarkidiornis melanotos	Comb duck	II	7/1/75
Order Falconiformes:	Hawks, Falcons, Vultures, Eagles:		
All species except Cathartidae and those species in app. I or with earlier date in app. II.	All species except New world vultures and species in app. I or with earlier date in app. II.	II	6/28/79
Accipiter gentilis	Northern goshawk	II	2/4/77
A. gundlachi	Gundlach's hawk	II	2/4/77
A. nisus	European sparrow hawk	II	2/4/77
Accipitridae spp. (all South American populations).	Hawks, Harriers	II	10/28/76
Aegypius monachus	European black vulture, Cinerous vulture.	II	2/4/77
Aquila spp., all species except that in app., I or with earlier date in app. II.	Eagles	II	2/4/77
A. chrysaetos	Golden eagle	II	7/1/75
A. heliaca	Imperial eagle	I	2/4/77
Chondrohierax wilsonii	Cuban hook-billed kite	I	2/4/77
Circaetus spp	Snake eagles	II	2/4/77
Circus spp	Harriers	II	2/4/77
Falconidae, all species in family except those in app. I.	Falcons, Caracaras	II	7/1/75
Falco araea	Seychelles kestrel	I	7/1/75
F. newtoni aldabranus	Aldabra kestrel	I	7/1/75
F. peregrinus	Peregrine falcon	I	7/1/75
F. punctatus	Mauritius kestrel	I	7/1/75
F. rusticolus (except population of North America, excluding Greenland).	Gyrfalcon	I	7/1/75
Gymnogyps californianus	California condor	I	7/1/75
Gypaetus barbatus	Lammergeier	II	2/4/77
Gyps fulvus	Griffon vulture	II	2/4/77
Haliaeetus spp. (except species in app.I)	Sea and fish eagles	II	2/4/77
H. albicilla (except subspecies listed below)	White tailed eagle	I	2/4/77
H. albicilla groenlandicus	Greenland white-tailed sea eagle	I	7/1/75
H. leucocephalus (except population listed below).	Bald eagle	I	2/4/77
H. leucocephalus leucocephalus	Southern bald eagle	I	7/1/75

Species	Common name	Appendix	Date listed* (month/day/year)
Harpia harpyja	Harpy eagle	I	7/1/75
Harpyopsis novaeguinaae	New Guinea harpy eagle	II	2/4/77
Milvus milvus	Red kite	II	2/4/77
Pandion haliaetus	Osprey	II	2/4/77
Pithecophaga jefferyi	Monkey-eating eagle	I	7/1/75
Sagittarius serpentarius	Secretary bird	II	2/26/76
Vultur gryphus	Andean condor	I	7/1/75
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Agelastes meleagrides (all parts and derivatives).	White-breasted guineafowl	III (Ghana)	2/26/76
Agriocharis ocellata	Ocellated turkey	III (Guatemala)	4/23/81
Argusianus argus	Great argus pheasant	II	7/1/75
Catreus wallichi	Cheer pheasant	I	7/1/75
Colinus virginianus ridgwayi	Masked bobwhite	I	7/1/75
Crax blumenbachii	Red-billed curassow	I	7/1/75
C. rubra (all parts & derivatives)	Great curassow	III (Costa Rica and Guatemala).	10/28/76
Crossoptilon crossoptilon	White eared pheasant	I	7/1/75
C. mantchuricum	Brown eared pheasant	I	7/1/75
Cyrtonyx montezumae mearnsi (Mexico population).	Mearn's harlequin quail	II	7/1/75
C. montezumae montezumae	Harlequin quail	II	7/1/75
Francolinus ochropectus	Tadjoura francolin	II	7/1/75
F. swierstrai	Swierstra's francolin	II	7/1/75
Gallus sonneratii	Gray jungle fowl	II	7/1/75
Ithaginis cruentus	Blood pheasant	II	7/1/75
Lophophorus impeyanus	Himalayan monal	I	7/1/75
L. lhuysii	Chinese monal	I	7/1/75
L. sclateri	Sclater's monal	I	7/1/75
Lophura edwardsi	Edward's pheasant	I	7/1/75
L. imperialis	Imperial pheasant	I	7/1/75
L. swinhoii	Swinhoe's pheasant	I	7/1/75
Lyrurus mlokosiewiczi	Caucasian black grouse	II	2/4/77
Macrocephalon maleo	Maleo	I	7/1/75
Megapodius freycinet abbotti	Abbott's megapode or incubator bird	II	7/1/75
M. freycinet nicobariensis	Nicobar megapode	II	7/1/75
Mitu (=Crax) mitu mitu	Mitu, Razor-billed curassow	I	7/1/75
Oreophasis derbianus	Horned guan	I	7/1/75
Ortalis vetula (all parts and derivatives)	Plain chachalaca	III (Guatemala)	4/23/81
Pavo muticus	Green peafowl	II	2/4/77
Penelope albipennis	White-winged guan	I	6/6/81
Penelopina nigra (all parts and derivatives)	Black chachalaca	III (Guatemala)	4/23/81
Pipile (=Aburria) jacutinga	Black-fronted piping-guan	I	7/1/75
P. (=Aburria) pipile pipile	Trindad white-headed curassow	I	7/1/75
Polyplectron bicalcaratum	Gray peacock pheasant	II	7/1/75
P. emphanum	Palawan peacock pheasant	I	7/1/75
P. germaini	Germain's peacock pheasant	II	7/1/75
P. malacense	Malaysian peacock pheasant	II	7/1/75
Syrmaticus ellioti	Elliot's pheasant	I	7/1/75
S. humiae	Bar-tailed pheasant	I	7/1/75
S. mikado	Mikado pheasant	I	7/1/75
Tetraogallus caspius	Caspian snowcock	I	7/1/75
T. tibetanus	Tibetan snowcock	I	7/1/75
Tragopan blythii	Blyth's tragopan	I	7/1/75
T. caboti	Cabot's tragopan	I	7/1/75
T. melanocephalus	Western tragopan	I	7/1/75
T. satyra (all parts and derivatives)	Satyr tragopan	III (Nepal)	11/16/75
Tympanuchus cupido attwateri	Attwater's greater prairie chicken	I	7/1/75
Order Gruiformes:	Cranes, Rails, Bustards:		
Balearica regulorum	Crowned crane	II	7/1/75
Chlamydotis undulata	Houbara bustard	I	7/1/75
Choriotis nigriceps	Great Indian bustard	I	7/1/75
Eupodotis bengalensis	Bengal floricon	I	7/1/75
Gallirallus australis hectori	Eastern weka rail	II	7/1/75
Grus americana	Whooping Crane	I	7/1/75
G. canadensis nesiotes	Cuba sandhill crane	I	7/1/75
G. canadensis pratensis	Florida sandhill crane	II	7/1/75
G. canadensis pulla	Mississippi sandhill crane	I	7/1/75
G. japonensis	Manchurian crane	I	7/1/75
G. leucogeranus	Siberian white crane	I	7/1/75
G. monacha	Hooded crane	I	7/1/75
G. nigricollis	Black necked crane	I	7/1/75
G. vipio	White-naped crane	I	7/1/75
Otis tarda	Great bustard	II	7/1/75
Pedionomus torquatus	Collared hemipode	II	6/28/79
Rhynochetos jubatus	Kagu	I	7/1/75
Tricholimnas sylvestris	Lord Howe wood rail	I	7/1/75
Turnix melanogaster	Black-breasted button quail	II	6/28/79
Order Charadriiformes:	Shorebirds, Gulls, Auks:		
Burhinus bistriatus (all parts and derivatives)	Double-striped, thick-knee, Mexican stone curlew.	III (Guatemala)	4/23/81
Larus brunnicephalus	Brown-headed gull	II	7/1/75
L. relictus	Relict gull	I	7/1/75
Numenius borealis	Eskimo curlew	I	7/1/75
N. minutus	Little whimbrel	II	7/1/75
N. tenuirostris	Slender-billed curlew	II	7/1/75
Tringa guttifer	Nordmann's greenshank	I	7/1/75
Order Columbiformes: Pigeons, Doves, Sandgrouse:			
Caloenas nicobarica	Nicobar pigeon	I	6/28/79
C. nicobarica pelewensis	Nicobar pigeon	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Columbidae; all species in family native to Ghana (all parts and derivatives).	Pigeons	III (Ghana)	2/26/76
Ducula mindorensis	Mindoro imperial pigeon	I	7/1/75
Gallicolumba luzonica	Bleeding heart pigeon	II	7/1/75
Goura cristata	Common crowned pigeon	II	7/1/75
G. scheepmaken	Maroon-breasted crowned pigeon	II	7/1/75
G. victoria	Victoria crowned pigeon	II	7/1/75
Nesoenas (=Columba) mayeri (all parts and derivatives).	Pink pigeon	III (Mauritius)	12/4/75
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
All species in order except those in App. I or with earlier date in App. II		II	6/6/81
A. arausiaca	Red-necked parrot	I	6/6/81
A. barbadensis	Yellow-shouldered parrot	I	6/6/81
A. brasiliensis	Red-tailed parrot	I	6/6/81
A. guildingii	St. Vincent parrot	I	7/1/75
A. imperialis	Imperial parrot	I	7/1/75
A. leucocephala	Cuban parrot	I	7/1/75
A. pretrei pretrei	Red-spectacted parrot	I	7/1/75
A. rhodocorytha	Red-browed parrot	I	7/1/75
A. versicolor	St. Lucia parrot	I	7/1/75
A. vinacea	Vinaceous parrot	I	7/1/75
A. vittata	Puerto Rican parrot	I	7/1/75
Anodorhynchus glaucus	Glaucous macaw	I	7/1/75
A. leari	Indigo macaw	I	7/1/75
Ara ambigua	Great green macaw	II	10/28/76
A. macao	Scarlet macaw	II	10/28/76
Aratinga guarouba	Golden conure	I	7/1/75
Cacatua (Kakatoe) tenuirostris	Slender-billed cockatoo	II	2/4/77
Calyptorhynchus lathami	Glossy cockatoo	II	2/4/77
Coracopsis nigra barklyi	Seychelles vasa parrot	II	7/1/75
Cyanoliseus patagonus byroni	Patagonian conure	II	6/28/79
Cyanopsitta spixii	Spix's macaw	I	7/1/75
Cyanoramphus auriceps forbesi	Forbe's or yellow-fronted parakeet	I	7/1/75
C. malherbi	Orange-fronted parakeet	II	7/1/75
C. novaezelandiae	New Zealand or red-fronted parakeet	I	7/1/75
C. unicolor	Antipodes green parakeet	II	7/1/75
Cyclopsitta (=Opopsitta) diophthalma coxeni.	Coxen's fig parrot	I	2/4/77
Eunymphicus cornutus	Horned parakeet	II	7/1/75
Geopsittacus occidentalis	Australian night parrot	I pe	7/1/75
Neophema chrysogaster	Orange-bellied parakeet	I	7/1/75
N. splendida	Scarlet-chested parakeet	II	7/1/75
Pezoporus wallicus	Ground parrot	I	2/4/77
Platycercus pileata	Red-capped or pileated parrot	I	7/1/75
Policephalus robustus	Cape parrot	II	7/1/75
Polytelis alexandrae	Princess parrot	II	2/4/77
Probosciger aterrimus	Great black cockatoo	II	7/1/75
Prosopoeia personata	Masked or yellow-breasted musk parrot	II	7/1/75
Psephotus chrysopterygius	Golden-shouldered parakeet	I	7/1/75
P. pulcherimus	Paradise parakeet	I pe	7/1/75
P. (Northiella) haematogaster narethae	Blue-bonnet parakeet	II	2/4/77
Psittacula krameri (all parts and derivatives)	Ring-neck parakeet	III (Ghana)	2/26/76
P. krameri echo	Mauritius ring-neck parakeet	I	7/1/75
Psittacus erithacus princeps	Principe parrot	I	7/1/75
Pyrrhura cruentata	Blue-throated or ochre-marked parakeet	I	7/1/75
Rhynchopsitta pachyrhyncha	Thick-billed parrot	I	7/1/75
R. terrisi	Maroon-fronted parrot	I	6/6/81
Strigops habroptilus	Kakapo or owl parrot	I	7/1/75
Tanygnathus lucionensis	Blue-naped parrot	II	2/4/77
Order Cuculiformes:	Cuckoos, Plantain-eaters:		
Gallirex (=Tauraco) porphyreolophus	Violet-crested turaco	II	7/1/75
Musophagidae, all species in family native to Ghana except species in app. II (all parts and derivatives).	Turacos	III (Ghana)	2/4/77
Tauraco corythaix	Knysna loury	II	2/4/77
Order Strigiformes:	Owls:		
All species except those in app. I or with earlier date in app. II.		II	6/28/79
Athene blewitti	Forest little owl, Forest spotted owlet	I	6/28/79
Bubo bubo	Eurasian eagle owl	II	2/4/77
Ninox novaeseelandiae royana	Great hawk owl	I	2/4/77
N. squamipila natalis	Moluccan hawk owl	I	2/4/77
Nyctea scandiaca	Snowy owl	II	2/4/77
Otus gurneyi	Giant scops owl	I	7/1/75
O. nudipes newtoni	Virgin Island screech owl	II	7/1/75
Strigidae, all species in family native to Ghana.	Owls	II	2/26/76
Strix butleri	Hume's wood owl	II	2/4/77
S. nebulosa	Great gray owl	II	11/16/75
Tyto soumagnei	Madagascar owl	I	2/4/77
Tytonidae, all species in family native to Ghana.	Owls	II	2/26/76
Order Apodiformes:	Swifts, Hummingbirds:		
Ramphodon (=Glaucis) dohrnii	Hook-billed hermit	I	7/1/75
Order Trogoniformes:	Trogoins:		
Pharomachrus mocinno costaricensis	Central resplendent quetzal	I	7/1/75
P. mocinno mocinno	Northern resplendent quetzal	I	7/1/75
Order Coraciiformes:	Hornbills, Kingfishers, rollers, Bee-eaters, Motmots:		
Aceros narcondami	Narcondam hornbill	II	7/1/75
Buceros bicornis	Great hornbill	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
B. bicornis homrai	Great Indian hornbill, Great pied hornbill.	I	7/1/75
B. hydrocorax hydrocorax	Luzon-Marinduque rufous hornbill	II	7/1/75
B. rhinoceros rhinoceros	Malay rhinoceros hornbill	II	7/1/75
Rhinoplax vigil	Helmeted hornbill	I	7/1/75
Order Piciformes:	Woodpeckers, Toucans, Jacamars, Barbets:		
Campephilus imperialis	Imperial woodpecker	I	7/1/75
Dryocopus javensis richardsi	Tristam's white-bellied woodpecker	I	7/1/75
Picus squamatus flavirostris	Green scaly-bellied woodpecker	II	7/1/75
Rhamphastos sulphuratus (all parts and derivatives).	Keel-billed toucan	III (Guatemala)	4/23/81
Order Passeriformes:	Perching birds:		
Atrichornis clamosa	Noisy scrub-bird	I	7/1/75
Bebrornis rodericanus (all parts and derivatives).	Rodriquez Island warbler	III (Mauritius)	12/4/75
Cotinga maculata	Banded cotinga	I	7/1/75
Dasyornis brachyterus longirostris	Western bristlebird	I	7/1/75
D. broadbenti litoralis	Western rufous bristlebird	I pe	7/1/75
Emblema oculata	Red-eared firetail	II	6/28/79
Fringillidae, all species in family native to Ghana (all parts and derivatives).	Finches	III (Ghana)	2/26/76
Gubernatrix cristata (all parts and derivatives).	Yellow cardinal	III (Uruguay)	7/14/76
Leucopsar rothschildi	Rothschild's starling or myna	I	7/1/75
Melilhaga cassidix	Helmeted honey eater	I	7/1/75
Muscicapa (=Niltava) ruecki	Rueck's blue fly-catcher or niltava	II	7/1/75
Paradiseidae, all species in family	Birds of paradise	II	7/1/75
Picathartes gymnocephalus	Bare-headed or yellow-headed rock fowl.	I	7/1/75
P. oreas	Gray-necked or red-headed rock fowl	I	7/1/75
Pitta brachyura nympha	Fairy pitta, Blue-winged pitta	II	7/1/75
P. kochi	Koch's pitta	I	7/1/75
Ploceidae, all species in family native to Ghana (all parts and derivatives).	Weaverbirds, weaver finches	III (Ghana)	2/26/76
Phoephila cincta cincta	Black-throated or Parson finch	II	10/17/80
Pseudochelidon sirintarae	White-eyed river martin	II	7/1/75
Psophodes nigrogularis	Western whipbird	II	7/1/75
Rupicola peruviana	Andean cock-of-the-rock	II	7/1/75
R. rupicola	Guianan cock-of-the-rock	II	7/1/75
Spinus cucullatus	Red siskin	I	7/1/75
S. yarrellii	Yellow-faced siskin	II	7/1/75
Tchitrea (Terpsiphone) bourbonnensis (all parts and derivatives).	Coq de Boise, Mascarene paradise flycatcher.	III (Mauritius)	12/4/75
Xanthopsar flavus (all parts and derivatives)	Saffron-cowled blackbird	III (Uruguay)	7/14/76
Xipholena atropurpurea	White-winged cotinga	I	7/1/75
Zosterops albogularis	White-breasted or Norfolk Island silvereye.	I	7/1/75
CLASS REPTILIA:	REPTILES:		
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
Alligatoridae, all species in family except those in app. I or with earlier date in app. II.	Alligators, caimans	II	2/4/77
Alligator mississippiensis	American alligator	II	7/1/75
A. sinensis	Chinese alligator	I	7/1/75
Caiman crocodilus apaporiensis	Apaporis River caiman	I	7/1/75
C. crocodilus crocodilus	Common caiman	II	7/1/75
C. crocodilus yacare (=C. yacare)	Yacare	II	7/1/75
C. crocodilus fuscus (including C. crocodilus chiapasius).	Brown caiman	II	7/1/75
C. latirostris	Broad-snouted caiman	I	7/1/75
Crocodylidae, all species in family except those in app. I or with earlier date in app. II.	Crocodiles	II	2/4/77
Crocodylus acutus	American crocodile	I	7/1/75
C. cataphractus	African slender-snouted crocodile	I	7/1/75
C. intermedius	Orinoco crocodile	I	7/1/75
C. johnsoni	Johnson's crocodile	II	7/1/75
C. moreletii	Morelet's crocodile	I	7/1/75
C. niloticus	Nile crocodile	I	7/1/75
C. novaeguineae (except subspecies listed below).	New Guinea or freshwater crocodile	II	7/1/75
C. novaeguineae mindorensis	Philippine crocodile	I	7/1/75
C. palustris kimbula	Ceylon mugger crocodile	I	7/1/75
C. palustris palustris	Mugger crocodile	I	7/1/75
C. porosus, except population of Papua New Guinea.	Saltwater crocodile	I	7/1/75
C. porosus, Papua New Guinea population	Saltwater crocodile	II	7/1/75
C. rhombifer	Cuban crocodile	I	7/1/75
C. siamensis	Siamese crocodile	I	7/1/75
Gavialis gangeticus	Gavial, gharial	I	7/1/75
Melanosuchus niger	Black caiman	I	7/1/75
Osteolaemus tetraspis (except subspecies listed below).	Dwarf crocodile	I	2/4/77
O. tetraspis osborni	Dwarf crocodile	I	7/1/75
O. tetraspis tetraspis	Dwarf crocodile	I	7/1/75
Paleosuchus trigonatus	Smooth-fronted caiman	II	7/1/75
Tomistoma schlegelii	Tomistoma, False gavial	I	7/1/75
Order Testudinata:	Turtles, Tortoises:		
Batagur baska	River terrapin, Tuntong	I	7/1/75
Cheloniidae, all species in family	Sea turtles	I	7/1/75
Chersina (=Testudo) spp	Bow-sprit tortoises	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Clemmys muhlenbergi	Bog turtle	II	7/1/75
Dermochelys coriacea	Leatherback sea turtle	I	7/1/75
Dermatemys mawii	Central American river turtle	II	6/6/81
Geochelone spp. (except species listed below).	Land tortoises	II	7/1/75
G. (=*Testudo*) *elephantopus*	Galapagos tortoises	I	7/1/75
G. (=*Testudo*) *radiata*	Madagascar radiated tortoises	I	7/1/75
G. (=*Testudo*) *yniphora*	Angulated tortoises	I	7/1/75
Geoclemys (=*Damonia*) *hamiltoni*	Spotted pond turtle	I	7/1/75
Geoemyda (=*Melanochelys or Nicoria*) *tricarinata*.	Three keeled Asian turtle	I	7/1/75
Gopherus spp. (except species listed below)	Gopher tortoises	II	7/1/75
G. flavomarginatus	Bolson tortoise	I	7/1/75
Homopus spp.	African parrot-beaked tortoises	II	7/1/75
Kachuga tecta tecta	Indian sawback turtle	I	7/1/75
Kinixys spp.	Hinged-back tortoise	II	7/1/75
Lissemys punctata punctata	Indian flap-shell tortoise	I	7/1/75
Malacochersus spp.	Pancake tortoises	II	7/1/75
Morenia ocellata	Burmese peacock turtle	I	7/1/75
Pelomedusa subruta (all parts and derivatives).	Helmeted terrapin	III (Ghana)	2/26/76
Pelusios spp. all species native to Ghana (all parts and derivatives).	African mud turtle	III (Ghana)	2/26/76
Podocnemis spp.	South African turtle	II	7/1/75
Psammobates (=*Testudo*) *geometricus*	Geometric turtle	I	2/4/77
Pseudemydura umbrina	Short-necked swamp turtle	I	7/1/75
Pyxis spp.	Madagascar spider tortoises	II	7/1/75
Terrapene coahuila	Aquatic box turtle	I	7/1/75
Testudinidae, all species except those in app. I or with earlier date in app. II.	Land tortoises	II	2/4/77
Testudo spp.	Land tortoises	II	7/1/75
Trionyx ater	Cuatro Cienegas softshell turtle	I	7/1/75
T. gangeticus	Indian softshell turtle	I	7/1/75
T. hurum	Peacock softshell turtle	I	7/1/75
T. nigricans	Black softshell turtle	I	7/1/75
T. triunguis (all parts and derivatives)	Three-clawed turtle	III (Ghana)	2/26/76
Order Rhynchocephalia:	Tuatara:		
Sphenodon punctatus	Tuatara	I	7/1/75
Order Squamata:	Lizards, Snakes:		
Acrantophis spp.	Madagascar boas	I	2/4/77
Amblyrhynchus cristatus	Galapagos marine iguana	II	7/1/75
Boidae, all species except those in app. I or with earlier date in app. II.	Boa constrictors, Pythons	II	2/4/77
Bolyeria spp.	Round Island boa	I	2/4/77
Brachylophus spp.	Fiji iguanas	I	6/6/81
Casarea spp.	Round Island boa	I	2/4/77
Chamaeleo spp.	Chamaeleons	II	2/4/77
Cnemidophorus hyperythrus	Orange-throated whiptail lizard	II	7/1/75
Conolophus spp (except species listed below).	Land lizards	II	2/4/77
C. pallidus	Barrington Island land lizard	II	7/1/75
C. subcristatus	Galapagos land iguana	II	7/1/75
Constrictor constrictor	Boa constrictor	II	7/1/75
Cordylus spp.	Girdled lizards	II	6/6/81
Crocodilurus lacertinus	Dragon lizardet	II	2/4/77
Cyclagras (=*Hydrodynastes*) *gigas*	South American false water cobra	II	7/1/75
Cyclura spp.	Ground iguanas	I	2/4/77
Cyrtodactylus serpensinsula	Serpent Island gecko	II	2/4/77
Dracaena guianensis	Caiman lizard	II	2/4/77
Elachistodon westermanni	Indian egg-eating snake	II	7/1/75
Epicrates cenchris cenchris	Rainbow boa	II	7/1/75
E. inornatus	Puerto Rican boa	I	2/4/77
Eunectes notaeus	Yellow anaconda	II	7/1/75
E. subflavus	Jamaican boa	I	7/1/75
Helodema spp.	Beaded lizards, Gila monster	II	7/1/75
Iguana spp.	Iguanas	II	2/4/77
Paradelma orientalis	Snake lizard	II	2/4/77
Phelsuma spp.	Day geckos	II	2/4/77
Phrynosoma coronatum blainvillei	San Diego horned lizard	II	7/1/75
Pseudoboa (=*Clelia*) *cloelia*	Mussurana snake	II	7/1/75
Pseudocordylus spp.	Crag lizards	II	6/6/81
Python spp. (except subspecies listed below).	Pythons	II	7/1/75
P. molurus molurus	Indian python	I	7/1/75
Sanzinia madagascariensis	Tree boa	I	2/4/77
Sauromalus varius	San Esteban Island Chuckwalla	I	6/6/81
Thamnophis elegans (=*couchi*) *hammondi*	Two-striped garter snake	II	7/1/75
Tupinambis spp.	Tegu lizards	II	2/4/77
Uromastyx spp.	Spiny-tailed lizards	II	2/4/77
Varanus spp. (all species except those in app. I).	Monitor lizards	II	7/1/75
V. bengalensis	Bengal monitor	I	7/1/75
V. flavescens	Yellow monitor	I	7/1/75
V. griseus	Desert monitor	I	7/1/75
V. komodoensis	Komodo Island monitor, Komodo dragon.	I	7/1/75
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Caudata:	Salamanders:		
Ambystoma dumerilli	Lake Patzcuaro salamander	II	7/1/75
A. lemaensis	Lake Lerma salamander	II	7/1/75
A. mexicanum	Axoloti	II	7/1/75
Andrias (=*Megalobatrachus*) *davidianus*	Chinese giant salamander	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
A. (=Megalobatrachus) Japonicus	Japanese giant salamander	I	7/1/75
Order Anura:	Frogs, Toads:		
Atelopus varius zeteki	Panamanian golden frog	I	7/1/75
Bufo periglens	Monteverde toad	I	7/1/75
B. retiformis	Sonoran green toad	II	7/1/75
B. superciliaris	Cameroon toad	I	7/1/75
Nectophrynoides spp	African viviparous toads	I	7/1/75
CLASS OSTEICHTHYES:	BONY FISHES:		
Order Acipenseriformes:	Sturgeons:		
Acipenser brevirostrum	Short-nosed sturgeon	I	7/1/75
A. fulvescens	Lake sturgeon	II	7/1/75
A. oxyrhynchus	Atlantic sturgeon	II	7/1/75
A. sturio	Baltic sturgeon	II	7/1/75
Order Osteoglossiformes:	Bonytongues:		
Arapaima gigas	Arapaima	II	7/1/75
Scleropages formosus	Asiatic bonytongue	I	7/1/75
Order Salmoniformes:	Salmon, Trout:		
Coregonus alpenae	Longjaw cisco	I	7/1/75
Salmo chrysogaster	Mexican golden trout	II	7/1/75
Stenodus leucichthys leucichthys	Beloribitsa	II	7/1/75
Order Cypriniformes:			
Caecobarbus geertsi	African or Congo blind barb	II	6/6/81
Chasmistes cujus	Cui-ui	I	7/1/75
Plagopterus argentissimus	Woundfin	II	7/1/75
Probarbus jullieni	Ikan temolek, Pla eesok	I	7/1/75
Ptychocheilus lucius	Colorado River squawfish	II	7/1/75
Order Atheriniformes:	Livebearers:		
Cynolebias constanciae	Annual tropical killifish	II	7/1/75
C. marmoratus	Annual tropical killifish	II	7/1/75
C. minimus	Annual tropical killifish	II	7/1/75
C. opalescens	Annual tropical killifish	II	7/1/75
C. splendens	Annual tropical killifish	II	7/1/75
Xiphophorus couchianus	Monterey platyfish	II	7/1/75
Order Coelacanthiformes:	Coelacanth:		
Latimeria chalumnae	Coelacanth, Gombessa	II	7/1/75
Order Ceratodiformes:	Lungfishes:		
Neoceratodus forsteri	Australian lungfish	II	7/1/75
Order Siluriformes:	Catfishes:		
Pangasianodon gigas	Thailand giant catfish	I	7/1/75
Order Perciformes:	Perch-like fishes:		
Cynoscion macdonaldi	Totoaba	I	2/4/77
Stizostedion vitreum glaucum	Blue pike	I	7/1/75
PHYLUM MOLLUSCA:	MOLLUSCS:		
Class Pelecypoda (=Bivalvia):	Clams, Mussels:		
Conradilla caelata	Birdwing pearly mussel	I	7/1/75
Cyprogenia aberti	Edible pearly mussel	II	7/1/75
Dromus dromas	Dromedary pearly mussel	II	7/1/75
Epioblasma (=Dysnomia or Ptagiola) florentina curtisi	Curtis' pearly mussel	I	7/1/75
E. florentina florentina	Yellow-blossom pearly mussel	I	7/1/75
E. sampsoni	Sampson's pearly mussel	I	7/1/75
E. sulcata perobliqua	White cat's paw mussel	I	7/1/75
E. torulosa gubernaculum	Green-blossom pearly mussel	I	7/1/75
E. torulosa rangiana	Tan-blossom pearly mussel	II	7/1/75
E. torulosa torulosa	Tuberculed-blossom pearly mussel	I	7/1/75
E. turgidula	Turgid-blossom pearly mussel	I	7/1/75
E. walkeri	Brown-blossom pearly mussel	I	7/1/75
Fusconaia cuneolus	Fine-rayed pigtoe mussel	I	7/1/75
F. edgariana	Shiny pigtoe mussel	I	7/1/75
F. subrotunda	Long solid mussel	II	7/1/75
Lampsilis brevicula	Ozark lamp pearly mussel	I	7/1/75
L. higginsi	Higgin's eye mussel	I	7/1/75
L. orbiculata orbiculata	Pink mucket mussel	I	7/1/75
L. satura	Plain pocketbook mussel	I	7/1/75
L. virescens	Alabama lamp pearly mussel	I	7/1/75
Lexingtonia dolabelloides	Slab-side pearly mussel	II	7/1/75
Mytilus chorus	Chilean mussel	II	6/28/79
Plethobasus cicatricosus	White wartyback mussel	I	7/1/75
P. cooperianus	Orange-footed pimpleback mussel	I	7/1/75
Pleurobema clava	Club pearly mussel	II	7/1/75
P. plenum	Rough pigtoe mussel	I	7/1/75
Potamilus (=Proptera) capax	Fat pocketbook mussel	I	7/1/75
Quadrula intermedia	Cumberland monkey-face mussel	I	7/1/75
Q. spansa	Appalachian monkey-face mussel	I	7/1/75
Toxolasma (=Carunculina) cylindrella	Pale lilliput pearly mussel	I	7/1/75
Unio (=Megalonaias) nicklíniana	Nicklin's pearly mussel	I	7/1/75
U. (=Lampsilis or Cyrtonaias) tampicoensis tecomatensis	Tampico pearly mussel	I	7/1/75
Villosa (=Micromya) trabalis	Cumberland bean mussel	I	7/1/75
Class Gastropoda:	Snails:		
Coahuilix hubbsi	Coahuilix de Hubbs Caracol	II	7/1/75
Cochliopina milleri	Cochliopina de Miller Caracol	II	7/1/75
Durangonella coahuilae	Durangonella de Coahuila Caracol	II	7/1/75
Mexipyrgus carranzae	Mexipyrgus de Carranza Caracol	II	7/1/75
M. churinceanus	Mexipyrgus de Churince Caracol	II	7/1/75
M. escobedae	Mexipyrgus de Escobeda Caracol	II	7/1/75
M. lugoi	Mexipyrgus de Lugo Caracol	II	7/1/75
M. mojarralis	Mexipyrgus del Oeste del Mojarral Caracol	II	7/1/75
M. multilineatus	Mexipyrgus del Este del Mojarral Caracol	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Mexithauma quadripaludium	Mexithauma de Cuatro Cienegas Caracol	II	7/1/75
Nymphophilus minckleyi	Nymphophilus de Minckley Caracol	II	7/1/75
Paludiscala caramba	Paludiscala Maravillosa Caracol	II	7/1/75
Papustyla (=Papuina) pulcherrima	Manus Island tree snail	II	7/1/75
Paryphanta spp. (New Zealand species only).	New Zealand amber snails	II	7/1/75
PHYLUM ARTHROPODA:	ARTHROPODS:		
Class Insecta:	Insects:		
Ornithoptera ssp.	Birdwing butterflies	II	2/16/79
O. alexandrae	Birdwing butterfly	II	2/4/77
O. allotei	Birdwing butterfly	II	2/4/77
O. chimaera	Birdwing butterfly	II	2/4/77
O. goliath	Birdwing butterfly	II	2/4/77
O. meridionalis	Birdwing butterfly	II	2/4/77
O. paradisea	Paradise birdwing butterfly	II	2/4/77
O. victoriae	Queen Victoria's birdwing butterfly	II	2/4/77
Parnassius apollo	Mountain apollo butterfly	II	2/4/77
P. apollo apollo	Mountain apollo butterfly	II	7/1/75
Trogonoptera spp.	Birdwing butterflies	II	2/16/79
Troides spp.	Birdwing butterflies	II	2/16/79
PHYLUM COELENTERATA:	COELENTERATES:		
Class Anthozoa:	Corals, Anemones:		
Order Antipatharia:	Black corals		
All species in order		II	6/6/81
PLANT KINGDOM:	PLANTS:		
Family Apocynaceae:	Dogbanes:		
Pachypodium spp.	Elephant's trunk	II	7/1/75
P. namaquanum	Half-men, Ghost-men	I	7/1/75
Family Araceae:	Arums:		
Alocasia sanderana		I	7/1/75
A. zebrina		I	7/1/75
Family Araliaceae:	Ginsengs:		
Panax quinquefolius (roots)	American ginseng	III	7/1/75
Family Araucariaceae:	Monkey-puzzle trees:		
Araucaria araucana (timber), all populations except that of Chile.	Monkey-puzzle tree	II	7/1/75
A. araucana, population of Chile	Monkey-puzzle tree	I	7/1/75
Family Asclepiadaceae:	Milkweeds:		
Ceropegia spp.	Ceropegias	II	6/28/79
Frerea indica		II	6/28/79
Family Byblidaceae:			
Byblis spp.	Byblis, Rainbow plants	II	6/28/79
Family Cactaceae:	Cacti:		
All species in the Americas (except those in App. I).		II	7/1/75
Ariocarpus agavoides	Living rock cactus	I	7/1/75
A. scapharostrus	Living rock cactus	I	7/1/75
Aztekium ritteri	Aztec cactus	I	7/1/75
Echinocereus lindsayi	Lindsay's hedgehog cactus	I	7/1/75
Obregonia denegrii	Artichoke cactus	I	7/1/75
Pelecyphora aselliformis	Hatchet cactus, peyotillo	I	7/1/75
P. (=Encephalocarpus) strobiliformis	Pinecone cactus	I	7/1/75
Rhipsalis spp.	Mistletoe cacti	II	7/1/75
Family Caryocaraceae:	Caryocars:		
Caryocar costaricense		I	7/1/75
Family Caryophyllaceae:	Pinks:		
Gymnocarpos przewalskii		I	7/1/75
Melandrium mongolicus		I	7/1/75
Silene mongolica		I	7/1/75
Stellaria pulvinata		I	7/1/75
Family Cephalotaceae:			
Cephalotus follicularis	West Australian pitcher plant	II	6/28/79
Family Chloanthaceae:			
Populations of all species in Australia	Lambs tails	II	6/28/79
Family Compositae—(=Asteraceae):	Composites, Asters:		
Saussurea lappa (roots)	Costus, Kuth roots	II	7/1/75
Family Cupressaceae:	Cypresses:		
Fitzroya cupressoides	Fitzroya, Alerce	I	7/1/75
Pilgerodendron uviferum	Pilgerodendron	I	7/1/75
Family Cyatheaceae:	Tree ferns:		
All species in the family (trunks) except those with earlier date.		II	2/4/77
Cyathea (Hemitelia) capensis (trunks)		II	7/1/75
C. dregei (trunks)		II	7/1/75
C. mexicana (trunks)		II	7/1/75
C. (Alsophila) salvinii (trunks)		II	7/1/75
Family Cycadaceae:	Cycads:		
All species except that listed in app. I (trunks).		II	2/4/77
Microcycas calocoma	Palma Corcho, Microcycas	I	7/1/79
Family Dicksoniaceae:	Tree ferns:		
All species in the family (trunks)		II	2/4/77
Family Didiereaceae:			2/4/77
All species in the family		II	2/4/77
Family Dioscoreaceae:	Yams:		
Dioscorea deltoidea (roots)	Kniss, Kurta	II	7/1/75
Family Euphorbiaceae:	Spurges:		
Euphorbia spp. excluding non-succulent species.	Euphorbias	II	7/1/75
Family Fagaceae:	Beeches:		
Quercus copeyensis (timber)	Roble, Copey oak	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Family Gentianaceae:	Gentians:		
Prepusa hookeriana	Scarlet-flowered prepusa	I	7/1/75
Family Gnetaceae:	Gnetums:		
Gnetum montanum (all parts and derivatives).		III (Nepal)	11/16/75
Family Haemodoraceae:	Bloodworts:		
Anigozanthos spp	Kangaroo paws	II	6/28/79
Macropidia fuliginosa	Black kangaroo paw	II	6/28/79
Family Humiriaceae:			
Vantanea barbourii	Ira chiricana	I	7/1/75
Family Juglandaceae:	Walnuts:		
Engelhardtia pterocarpa	Gavilan	I	7/1/75
Family Leguminosae—(=Fabaceae):	Peas, Pulse:		
Ammopiptanthus mongolicum		I	7/1/75
Cynometra hemitomophylla	Guapinol negro	I	7/1/75
Platymiscium pleiostachyum	Granadillo, Nambar	I	7/1/75
Tachigalia versicolor	Cana fistula	I	7/1/75
Thermopsis mongolica		II	7/1/75
Family Liliaceae:	Lilies, Aloes:		
Aloe spp., all species except those in app. I	Aloes	II	7/1/75
A. albida		I	7/1/75
A. pillansii	Boomaalwyn	I	7/1/75
A. polyphylla	Spiral aloe	I	7/1/75
A. thorncroftii		I	7/1/75
A. vossii		I	7/1/75
Family Magnoliaceae:	Magnolias:		
Talauma hodgsonii (all parts and derivatives).		III (Nepal)	11/16/75
Family Melastomataceae:	Meadow-Beauties:		
Lavoisiera itambana		I	7/1/75
Family Meliaceae:	Mahoganies:		
Guarea longipetiola	Cola de pava	I	7/1/75
Swietenia humilis timber	Cabana, Mexican mahogany	II	7/1/75
Family Moraceae:	Mulberries:		
Batocarpus costaricensis	Ojoche macho	I	7/1/75
Family Myrtaceae:	Myrtles:		
Verticordia spp	Feather flowers	II	6/28/79
Family Nepenthaceae:			
Nepenthes rajah	Giant pitcher plant	I	6/6/81
Family Orchidaceae:	Orchids:		
All species except those in app. I		II	7/1/75
Cattleya skinneri	Guaria morada	I	7/1/75
C. trianae	Christmas orchid	I	7/1/75
Didiciea cunninghamii		I	7/1/75
Laelia jongheana		I	7/1/75
L. lobata		I	7/1/75
Lycaste virginalis var. *alba*	White nun, Monja blanca	I	7/1/75
Peristeria elata	Holy Ghost, Dove orchid	I	7/1/75
Renanthera imschoestiana		I	7/1/75
Vanda coerulea	Blue vanda	I	7/1/75
Family Palmae (Arecaceae:	Palms:		
Areca ipot		II	7/1/75
Chrysalidocarpus decipiens		II	2/4/77
C. lutescens	Yellow palm, Areca palm, Butterfly palm.	II	2/4/77
Neodypsis decaryi		II	7/1/75
Phoenix hanceana var. *philippinensis*		II	7/1/75
Zalacca clemensiana		II	7/1/75
Family Papaveraceae:	Poppies:		
Meconopsis regia (all parts and derivatives)		III (Nepal)	11/16/75
Family Pinaceae:	Pines, Firs:		
Abies guatemalensis	Guatemalan fir	I	7/1/75
A. nebrodensis	Tronco nudo	I	7/1/75
Family Podocarpaceae:	Podocarps:		
Podocarpus costalis		I	7/1/75
P. nerifolius (all parts and derivatives)		III (Nepal)	11/16/75
P. parlatorei	Parlatore's podocarp, Monteromero	I	7/1/75
Family Portulacaceae:	Portulacas:		
Anacampseros spp		II	7/1/75
Family Primulaceae:	Primroses:		
Cyclamen spp	Cyclamens	II	7/1/75
Family Proteaceae:	Silk oaks:		
Banksia spp	Banksias	II	6/28/79
Conospermum spp	Smoke bushes	II	6/28/79
Dryandra formosa	Showy dryandra	II	6/28/79
D. polycephala		II	6/28/79
Orothamnus zeyheri	Marsh rose	I	7/1/75
Protea odorata	Ground rose	I	7/1/75
Xylomelum spp	Woody pears	II	6/28/79
Family Rubiaceae:	Madders:		
Balmea stormiae	Ayuque	I	7/1/75
Family Rutaceae:	Boronias, Rues:		
Boronia spp	Boronia	II	6/28/79
Geleznowia verrucosa		II	6/28/79
Crowea spp	Crowea	II	6/28/79
Family Sarraceniaceae:	Pitcher plants:		
Darlingtonia californica	California pitcher plant; Cobra lily	II	6/6/81
Sarracenia alabamensis alabamensis	Alabama canebrake pitcher plant	I	6/6/81
S. jonesii	Mountain sweet pitcher plant	I	6/6/81
S. oreophila	Green pitcher plant	I	6/6/81
Family Saxifragaceae—(Grossulariaceae):	Saxifrages, Currents, Gooseberries:		
Ribes sardoum		I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Family Solanaceae:	Nightshades:		
Solanum sylvestre		II	7/1/75
Family Stangeriaceae:			
All species except that in app. I		II	2/4/77
Stangeria eriopus	Fern-leafed Stangeria	I	7/1/75
Family Sterculiaceae:	Sterculias:		
Basiloxylon excelsum (timber)		II	7/1/75
Family Tetracentraceae:	Tetrecentrons:		
Tetracentron spp. (all parts and derivatives)		III (Nepal)	11/16/75
Family Thymelaeaceae:	Mezereums:		
Pimelea physodes	Qualup bell	II	6/28/79
Family Ulmaceae:	Elms:		
Celtis aetnensis		I	7/1/75
Family Verbenaceae:	Verbenas:		
Caryopteris mongolica		II	7/1/75
Family Welwitschiaceae:	Welwitschias:		
All species except that in app. I		II	2/4/77
Welwitschia bainesii	Welwitschia	I	7/1/75
Family Zamiaceae:	Cycads:		
All species except those in app. I		II	2/4/75
Encephalartos spp	Bread palms, African cycads	I	7/1/75
Family Zingiberaceae:	Gingers:		
Hedychium philippinense	Philippine garland flower	I	7/1/75
Family Zygophyllaceae:	Caltrops:		
Guaiacum sanctum (timber)	Lignum-vitae	II	7/1/75

[FR Doc. 81-25876 Filed 9-03-81; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
September 4, 1981

Part IV

Department of the Interior

Bureau of Land Management

Procedures for Sale of Lands

Public Land Law Review

DEPARTMENT OF THE INTERIOR

43 CFR Part 2710

Procedures for Sale of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking will provide the procedures for implementing the provisions of the Act of December 23, 1980 (94 Stat. 3381), which authorizes and directs the Secretary of the Interior to sell not more than 700 acres of public lands per calendar year in and around Las Vegas, Nevada. The Act further directs that a portion of the proceeds realized by the United States from the sale be used to acquire environmentally sensitive lands in the Lake Tahoe Basin of California and Nevada.

EFFECTIVE DATE: September 29, 1981, and will expire on December 31, 1981.

ADDRESS: Any comments, suggestions or inquiries should be sent to: Director (650), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David Hemstreet, (202) 343-8731.

SUPPLEMENTARY INFORMATION: This interim final rulemaking authorizes the Bureau of Land Management to sell public lands in and around Las Vegas, Nevada, at competitive auction using as a minimum bid a price to be established by the authorized officer under a procedure agreed to by the authorized officer and Clark County, Nevada. The sale procedure set forth in the rulemaking requires that fair market value be received for all sales. The rulemaking requires receipt of a minimum of three bids on a tract before the high bid can be considered as having established fair market value for that tract. The authorized officer will be authorized to withdraw a tract from sale at any time prior to issuance of a patent, if he/she determines that fair market value was not received as a result of the public auction, or for any other valid reason.

If a tract is withdrawn from sale for the reason that fair market value was not received at the public auction, the tract will be appraised in accordance with the principles in the interagency Department of Justice publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions" and offered for sale at a later date.

This final interim rulemaking is needed to allow the Bureau of Land Management to carry out the provisions of the Act of December 23, 1980. The existing sales regulations in 43 CFR Part 2710 require appraisal of all lands to be sold in accordance with principles in the interagency Department of Justice publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions." If the existing procedure for lands sales is followed, it will be impossible to complete the appraisal process and sell 700 acres of land during this calendar year. Therefore, this interim procedure is being adopted so the Bureau of Land Management can meet the Congressional mandate contained in the Act and sell up to 700 acres of land and receive fair market value for it prior to the end of this calendar year. In all other details, the provisions of the existing regulations in 43 CFR Part 2710 relating to sale of public lands will be followed. Every possible precaution will be taken in regard to the sale of lands under this interim rulemaking to assure that the public interest is properly protected.

The principal author of this interim final rulemaking is David C. Hemstreet, Division of Land, Realty and Withdrawals, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96-354).

Under the authority of the Act of December 23, 1980 (Pub. L. 96-586), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 2710, Group 2700, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended by adding a new Subpart 2712 as follows.

David C. Russell,

Acting Assistant Secretary of the Interior.

August 20, 1981.

PART 2710—SALES—FEDERAL LAND POLICY AND MANAGEMENT ACT

Subpart 2712—Sales of Public Lands in and Around Las Vegas, Nevada

Sec.
2712.0-3 Authority.
2712.1 Sale procedures.

Authority: Pub. L. 96-586 and 43 U.S.C. 1701 et seq.

Subpart 2712—Sale of Public Lands in and Around Las Vegas, Nevada

§ 2712.0-3 Authority.

The Act of December 23, 1980 (Pub. L. 96-586) authorizes and directs the Secretary to sell not more than 700 acres of public lands per calendar year in and around Las Vegas, Nevada. The Federal portion of the proceeds from the sale of such lands is to be used by the United States to acquire environmentally sensitive lands in the Lake Tahoe Basin of California and Nevada.

§ 2712.1 Sale procedures.

(a) Sales under this subpart shall not be made at less than fair market value. Fair market value for the purposes of this subpart may be established by offering said lands at public auction. The minimum bid for each tract of land for purposes of offering at public auction shall be determined by the authorized officer under a procedure agreed to by the authorized officer and Clark County, Nevada. The highest bid received shall be considered to be fair market value for a given tract if at least 3 bids have been received for the tract. The authorized officer may set aside the sale of a tract at any time prior to issuance of patent if it is determined that a sale should not be completed for any reason, including a determination that fair market value has not been received, regardless of the number of bids received on a given tract. A tract withdrawn from public sale under this subpart because of a determination that fair market value has not been received at public auction shall be appraised and offered for sale at a time determined by the authorized officer.

(b) Sales under this subpart shall be processed in a manner consistent with the law and the regulations in Subparts 2710 and 2711 of this title, insofar as their general and procedural requirements are consistent with the Act of December 28, 1980, and this subpart.

(c) An offering for sale of public lands in Clark County, Nevada, pursuant to the provisions of this section shall fulfill the requirements of section 2(f) of the Act of December 23, 1980, whether or not the sale is consummated.

[FR Doc. 81-25882 Filed 9-3-81; 8:45 am]
BILLING CODE 4310-84-M

federal register

Friday
September 4, 1981

Part V

Department of Agriculture

Agricultural Marketing Service

Federally Licensed Warehouses; Fees for Services: Proposed Rulemaking

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 101, 102, 103, 104, 106, 107, 108 and 111

Federally Licensed Warehouses; Fees for Services: Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, approved August 13, 1981, amends Section 10 (7 U.S.C. 251) of the United States Warehouse Act to stipulate that "The Secretary of Agriculture, or his designated representative, shall charge, assess, and cause to be collected a reasonable fee for (a) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this Act; (b) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act; (c) each annual warehouse license issued to a warehouseman to conduct a warehouse under this act, and (d) each warehouse license amended, modified, extended, or reinstated under this Act * * * Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses; including the administrative and supervisory costs. All fees collected shall be credited to the current appropriation that incurs the costs and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under the Act." * * *.

The purpsoe of these proposed rules is to suggest for comment fees for the named services which would approximate the cost of the service and recover costs associated with the program.

DATE: The Omnibus Budget Reconciliation Act of 1981 requires the user fee for federally licensed warehouses to be imposed on October 1, 1981. Due to the nearness of such effective date, a 60-day comment period on this proposed rule is impractical. Written comments should be filed not later than September 24, 1981.

ADDRESS: Comments should be filed in triplicate with the Hearing Clerk, U.S. Department of Agriculture, 14th & Independence Avenue, S.W., Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Orval Kerchner, Chief, Warehouse Development Branch, Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202-447-3616).

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and has been classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, has determined that this action will not have a significant impact on a substantial number of small business entities because (i) use of the services is voluntary; and (ii) further, if there is any impact, the Secretary is required by statute to make the services available and to recover the costs of the services from the users of the services.

License Fees

The Act stipulated that the Secretary may charge, assess, and cause to be collected a reasonable fee for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under provisions of the Act. Accordingly, fees were specified by regulation for each original warehouseman's license issued, for each amended or reinstated warehouseman's license issued and for each license issued to classify, inspect, grade, sample, and/or weigh agricultural products.

The present fee for issuance of an original warehouseman's license is a modest one-time charge, the fee intended only to cover the "paperwork" of issuance. The license is continued each year without a new license being issued but may be terminated any year should the warehouseman fail to furnish annually on or before the anniversary date such bond for the ensuing year as is required by the Act and regulations.

Fees for such licenses are continued by the amendment to the Act and these proposals with increases in amount to reflect reasonable costs of issuance.

Inspection of a Warehouse

The Act stipulated that the Secretary may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse when such examination or inspection is made upon application of a warehouseman.

Accordingly, fees were specified by regulation assessed and collected for each original inspection and/or reinspection when such inspection was made upon application of a warehouseman.

Fees for such examinations and inspections are continued by the amendment to the Act and these proposals with increases in amount to reflect reasonable costs of performing the service.

Annual Warehouse Lincense

No fees were authorized, specified, assessed or collected under the original act for examinations made by the Secretary pursuant to authority contained in Sections 24 and 27 of the Act. The amendment to the Act and the proposed regulations provide for fees for examinations conducted pursuant to Sections 24 and 27 as part of an "annual warehouse license" charge.

The focal point of administering the program is the unannounced, unrequested examination and consequently accounts for major costs of the program.

It is proposed that an annual warehouse license fee should recover the reasonable costs of examinations made pursuant to Sections 24 and 27 of the Act and the general administration and supervisory costs related to maintaining an effective program.

Implementation of Fees

Fees for the originial, amended and/or reinstated licenses, for inspection and/or reinspection examinations, for licenses to classify, inspect, grade, sample, and/or weigh shall be assessed and collected as the service covered is performed. The annual warehouse license fee shall be assessed and collected effective with the date of issuance of the original license or continuation thereof on the anniversary date. Failure of a warehouseman to pay such fee at that time shall be grounds for suspension of license. Each warehouseman holding an active license on October 1, 1981, shall be billed for a proportionate share of his annual fee which will extend coverage to the next anniversary date of his license. Failure to pay this partial fee shall be grounds for suspension of license.

Purpose of this Action

This action is taken to provide licensed warehouseman with notice of fee requirements under Pub. L. 97-35 and to elicit comments as to the proposed methods of assessing those fees.

The regulations, therefore, are proposed to be amended as follows:

PART 101—COTTON WAREHOUSES

Sections 101.50, 101.51 and 101.52 are revised as follows:

Fees

§ 101.50 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to classify, sample, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 101.51 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $20 for each 1,000 bales of storage capacity, or fraction thereof, determined in accordance with § 101.5, but in no case less than $100 nor more than $500; and

(b)(1) For each annual warehouse license issued or continued an annual fee at the rate of 1.5¢ for each bale of licensed capacity, plus 4.5¢ for each receipted bale handled by the warehouse during the preceding cotton season. The licensed capacity shall be that stated in the current warehouse license as determined under § 101.5. The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $500 nor more than $5,000. After October 1, 1982, an additional fee will be assessed at the rate of 3.0 cents for each single paper receipted bale handled during the preceding cotton season. This assessment will not apply where paper receipts are ordered on an emergency basis, as determined by the Secretary.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 101.52 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 102—GRAIN WAREHOUSES

2. Sections 102.57, 102.58 and 102.59 are revised as follows:

Fees

§ 102.57 License fee.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 102.58 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $10 for each 10,000 bushels of storage capacity or fraction thereof, determined in accordance with § 102.6(a), but in no case less than $100 nor more than $1,000; and

(b)(1) For each annual warehouse license issued or continued an annual fee computed in accordance with the following table:

Licensed capacity (thousand bushels)	Annual fee (dollars)
Less than 200	600
200 to 349	1,000
350 to 499	1,400
500 to 999	1,900
1,000 to 1,999	2,500
2,000 to 3,499	3,100
3,500 to 4,999	3,700
5,000 to 9,999	4,400
10,000 to 14,999	5,000
15,000 to 19,999	5,600
20,000 and over	6,000

The licensed capacity shall be that stated in the current warehouse license as determined under § 102.6(a). The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $600.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 102.59 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 103—TOBACCO WAREHOUSES

3. Sections 103.48, 103.49 and 103.50 are revised as follows:

Fees

§ 103.48 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 103.49 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $10 for each 100,000 pounds of storage capacity, or fraction thereof, determined in accordance with § 103.12, but in no case less than $100 nor more than $500; and

(b)(1) For each annual warehouse license issued or continued an annual fee at the rate of $10 for each 100,000 pounds of licensed capacity, or fraction thereof. The licensed capacity shall be

that stated in the current warehouse license as determined under § 103.12. The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $400 nor more than $4,000.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 103.50 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified, if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 104—WOOL WAREHOUSES

4. Sections 104.46, 104.47 and 104.48 are revised as follows:

Fees

§ 104.46 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to grade or weigh agriculcultural products stored or to be stored under provisions of this Act.

§ 104.47 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $10 for each 100,000 pounds of storage capacity or fraction thereof, determined in accordance with § 104.12(a), but in no case less than $100 nor more than $500; and

(b)(1) For each annual warehouse license issued or continued an annual fee at the rate of $10 for each 100,000 pounds of licensed capacity, or fraction thereof. The licensed capacity shall be that stated in the current warehouse license as determined under § 104.12(a). The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement has has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $400 nor more than $4,000.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 104.48 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 106—DRY BEAN WAREHOUSES

5. Sections 106.55, 106.56 and 106.57 are revised as follows:

Fees

§ 106.55 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, or weigh agricultural products stored or to be stored under provisions of this Act; except that no fee shall be charged for issuance of a license to an inspector who holds an unsuspended and unrevoked license under the Agricultural Marketing Act of 1946 and regulations thereunder to inspect and grade any beans and to certificate the grade thereof.

§ 106.56 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examinatin or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $10 for each 1,000 hundredweight of storage capacity, or fraction thereof determined in accordance with § 106.12(a), but in no case less than $100 nor more than $500; and

(b)(1) For each annual warehouse license issued or continued an annual fee computed in accordance with the following table:

Licensed capacity (thousand hundredweight)	Annual fee (dollars)
Less than 120	600
120 to 209	1,000
210 to 299	1,400
300 to 599	1,900
600 to 1,199	2,500
1,200 to 2,099	3,100
2,100 to 2,999	3,700
3,000 to 5,999	4,400
6,000 to 8,999	5,000
9,000 to 11,999	5,600
12,000 and over	6,000

The licensed capacity shall be that stated in the current warehouse license as determined under § 106.12(a). The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $600.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 106.57 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit

with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 107—NUT WAREHOUSES

6. Sections 107.56, 107.57 and 107.58 are revised as follows:

Fees

§ 107.56 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 107.57 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, a reexamination or reinspection of a warehouse under the Act a fee at the rate of $5 for each 100 tons, or fraction thereof, of peanuts, and $10 for each 1,000 hundredweight, or fraction thereof of other nuts of storage capacity determined in accordance with § 107.6, but in no case less than $100 nor more than $1,000; and

(b)(1) For each annual warehouse license issued or continued an annual fee at the rate of 10¢ for each ton of licensed capacity, or fraction thereof. The licensed capacity shall be that stated in the current warehouse license as determined under § 107.6. The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $600 nor more than $6,000.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (b)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 107.58 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 108—SIRUP WAREHOUSES

7. Sections 108.48, 108.49 and 108.50 are revised as follows:

Fees

§ 108.48 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 108.49 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $3 for each 5,000 gallons or fraction thereof of storage capacity determined in accordance with § 108.12(a), but in no case less than $100 nor more than $500; and

(b) (1) For each annual warehouse license issued or continued an annual fee at the rate of $3 for each 5,000 gallons of licensed capacity, or fraction thereof. The licensed capacity shall be that stated in the current warehouse license as determined under § 108.12(a). The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $400 nor more than $4,000.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with paragraph (a)(1) of this section or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 108.50 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

PART 111—COTTONSEED WAREHOUSES

8. Sections 111.58, 111.59 and 111.60 are revised as follows:

Fees

§ 111.58 License fees.

There shall be charged and collected a fee of $50 for each original warehouseman's license, and a fee of $50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of $20 for each license or amendment thereto issued to any person to inspect, grade, or weigh agricultural products stored or to be stored under provisions of this Act.

§ 111.59 Warehouse inspection fees.

There shall be charged and collected—

(a) For each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of $10 for each 1,000 tons of storage capacity, or fraction thereof determined in accordance with § 111.13, but in no case less then $100 nor more than $500; and

(b) (1) For each annual warehouse license issued or continued an annual fee at the rate of $10 for each 1,000 tons of licensed capacity, or fraction thereof. The licensed capacity shall be that stated in the current warehouse license as determined under § 111.13. The fee determined by this formula can be reduced 25 percent if the warehouseman provides the Secretary with an annual financial statement that has been audited by a Certified Public Accountant in accordance with generally accepted auditing standards; but in no case shall the fee be less than $600 nor more than $6,000.

(2) In case a warehouseman is licensed or is applying for license to operate more than one operational warehouse under a single license, there shall be added to the fee determined in accordance with (b)(1) above or the minimum or maximum, as applicable, a charge of $200 for each such additional warehouse; however, separate warehouses within the confines of a city or similar identifiable and generally recognized trading area shall not be subject to the additional charge.

§ 111.60 Advance deposit.

Before any license is granted or an original examination or inspection, or reexamination or reinspection is made pursuant to the regulation in this part, the applicant or licensee shall deposit with the Service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Treasurer of the United States."

Done at Washington, D.C., August 31, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-25883 Filed 9-3-81; 8:45 am]

BILLING CODE 3410-02-M

federal register

Friday
September 4, 1981

Part VI

Department of Energy

Loans for Bid or Proposal Preparation by Minority Business Enterprises Seeking DOE Contracts and Assistance; Final Regulations

DEPARTMENT OF ENERGY

Office of Minority Economic Impact

10 CFR Part 800

Loans for Bid or Proposal Preparation by Minority Business Enterprises Seeking DOE Contracts and Assistance

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The National Energy Conservation Policy Act, Public Law 95-619, amended the Department of Energy Organization Act (Pub. L. 95-91) by adding Section 211, establishing the Office of Minority Economic Impact. Section 211(e) authorizes the Department of Energy (DOE) to provide financial assistance to minority business enterprises to assist such enterprises in participating fully in DOE research, development, demonstration and contract activities. Financial assistance under this final rule is to be in the form of loans to minority enterprises of funds necessary to bid for and obtain DOE contracts or agreements or subcontracts with DOE operating contractors. Loans are limited to a maximum of 75% of the costs involved.

EFFECTIVE DATE: October 5, 1981.

ADDRESSES: Rosslee G. Douglas, Director, Office of Minority Economic Impact, Mail Stop 7B-192, 1000 Independence Avenue, S.W., (FORSTL), Washington, D.C. 20585, (202) 252-8383.

FOR FURTHER INFORMATION CONTACT: James Salter, Office of Procurement Policy—PR-20, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9092.

George Samels, Office of General Counsel, Mail Stop 6F-078 (GC-44), 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-1526.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Final Rule
A. General
B. Comments and Responses; Changes
III. Text of Authorizing Legislation
IV. Additional Information

I. Background

Section 211(e) of the DOE Organization Act (the "Act") authorizes the Secretary of Energy, acting through the Office of Minority Economic Impact, to provide direct loans to minority business enterprises for bid or proposal preparation under such rules as the Secretary may prescribe. Other parts of section 211 authorize other activities by OMEI on behalf of minorities and minority business enterprises. This is the final rule promulgated by DOE to implement Section 211(e) of the Act and concerns direct loans only.

II. Discussion of the Final Rule

A. General

On January 19, 1981, the Department of Energy (DOE) published a proposed rule (46 FR 5514, January 19, 1981) to provide direct loans to minority business enterprises to assist such enterprises to bid for and obtain DOE contracts or agreements or subcontracts with DOE operating contractors.

This final regulation has extensively reorganized matter in the proposed rule. Several sections have been redrafted to incorporate provisions of certain proposed sections into a single new one. These changes clarify, simplify and consolidate sections of the regulation which logically should be together, providing the public with a more understandable regulation when compared to the proposed rule.

B. Comments and Responses; Changes

The following is a discussion of the changes between the proposed rule and this final regulation, and DOE's responses to public comments.

Section 800.001 was changed so as to refer to DOE "contract activities" in addition to DOE research, development and demonstration activities. The new section more closely follows the wording of the underlying legislation, and makes clear that the loans are to defray a percentage of the costs of obtaining DOE contracts and other agreements, including procurements, cooperative agreements, grants, loans and loan guarantees, and of obtaining first-tier subcontracts with DOE operating contractors.

Comment: Comments received were generally supportive of the purpose for this program.* The Small Business Administration added that, in addition to providing loans, DOE should provide technical assistance either directly or through a contractor. Also, SBA asserted that the proposed rule lacks any intelligence—sharing capability and coordination with other agencies and groups trying to help minorities compete.

Response: This regulation is not intended to implement the technical assistance provisions of section 211(d) of the Act. The Office of Minority Economic Impact will cooperate, in this direct loan program, with DOE's Office of Small and Disadvantaged Business Utilization. The solicitation provisions in § 800.100 have been revised to include circulation to minority trade organizations and to the Minority Business Development Agency and Small Business Administration.

Comment: The Minority Business Development Agency (MBDA) suggests grants rather than loans should be the preferred form of assistance.

Response: DOE lacks authority under section 211(e) to provide grants. The legislation would have to be amended to include grants as a form of assistance.

Section 800.002 titled "Definitions" is now § 800.003. Under this section, the definition of "costs" has been changed. Originally it was titled "Bid or Proposal Costs". Also, originally the term referred to bidding on "DOE business". The definition has been expanded to refer expressly to the broad range of DOE/prime contractor procurement, contract and financial assistance activity. The definition includes subcontracts expressly, but is limited to certain "first-tier" subcontracts, that is, to subcontracts with DOE operating contractors. The change better corresponds with the legislation, which refers expressly to full participation in DOE "research, development, demonstration and contract activities", and to Congressional intent to assist minority business enterprises "to bid for and obtain contracts or other agreements". Similarly, the definition of "operating contractors" was changed by adding a third category, to track the definition of "operating contractor" at § 9-50.001(a)(1) of the DOE Procurement Regulation (41 CFR Chapter 9).

Comment: DOE received several comments regarding the percentage of minority ownership contained in the definition of a "Minority Business Enterprise". The comments generally recommended increasing this to a 51% threshold, the percentage owned used by the Small Business Administration and certain other agencies. In addition, one comment suggested the definition be changed to include ownership by a "socially and economically disadvantaged" individual instead of using the term "minority".

*Comments were received, analyzed and, as this discussion indicates, appropriately considered, from the following sources:

(1) Bill Atterbury—Small Business Administration.

(2) Honorable Alan Cranston—U.S. Senate.

(3) Charles Delgado—Cardinal Management Associates.

(4) Stephen Denlinger—Latin American Manufacturers Association.

(5) Honorable Mickey Leland—U.S. House of Representatives.

(6) Ralph Martinez—Minority Business Development Agency.

(7) Honorable Edward Roybal—U.S. House of Representatives.

(8) B. D. Spotswood—Solar America, Inc.

Response: The definition was changed to reflect Congress' obvious intent to include a sole proprietorship as an eligible applicant within the meaning of the term "firm". In addition, the eligible minority groups listed in the legislation were also specified. The 50% threshold is specified by the Act.

Section 800.005 titled "Eligibility" has been renumbered as § 800.004, and omits the reference to "a national of the United States." That reference was inconsistent with the statutory definition (section 211(f)) of "minority" and "minority business enterprise", which appears to limit eligibility to business enterprises in terms of their composition of citizens, without reference to nationals. This is the single substantial change from the proposed rulemaking as published in January 19, 1981. No comment raised this point. The rationale for this change was premised on DOE's lack of authority under the Act to extend eligibility to "nationals".

Comment: Several comments were received in favor of periodic, rather than annual, solicitation announcements. The comments also suggested that the solicitations be circulated to minority trade organizations and through publications of other agencies with a responsibility for promoting minority business development.

Response: The section was changed to accommodate these concerns. Section 800.100 no longer holds DOE to an annual solicitation cycle; DOE can now issue more frequent solicitations. Also, a provision was added calling for circulation of such solicitations to minority trade associations and to related private and Federal agencies.

Comment: Comments were received both pro and con a two-step preliminary qualification and loan application process. All comments reflected an interest in having an expeditious decision on a loan application.

Response: The process has been streamlined; the information requirements are more specific, and the information can be provided in a format of an applicant's choosing.

In the proposed rule, a two-step application process was the norm: an applicant was to submit a "qualifying" application and follow this with a later application for a loan, coincidental with a specific bid or proposal opportunity. The final rule substitutes a single application process, where a specific loan may be requested, but also permits advance review of basic "qualifying" data where an applicant chooses to use that approach in order to save review time later. Accordingly, the various provisions dealing with the application process, previously at §§ 800.100, 800.200–800.201 and 800.300–800.301, have been combined into a single new section 800.101, without substantive change. As before an applicant is free to use the single-step or two-step approach to application. In the original version, the use of DOE application forms was contemplated, as was applicant's selection of a servicing agent. The final rule permits off-form application and leaves selection of a servicing agent to DOE.

Comment: One comment suggested that a loan may be processed and approved before a DOE competitive solicitation is announced to the public. The concern is that an applicant have access to loan proceeds with sufficient lead time to be responsive in preparing a response to such a solicitation.

Response: An applicant can accelerate the process by submitting qualification data beforehand. DOE will give priority in the processing of loan applications pertaining to competitive solicitations.

New §§ 800.102 and 800.103 combine the evaluation provisions of former §§ 800.202–800.203 and 800.302–800.303. They are now directed to the application as it stands, whether for a specific loan or for preliminary evaluation, and are intended to expedite the application process. New § 800.101(b) drops the requirement for annual application updates as burdensome and probably unnecessary in view of departure from the "normal" two-step application process under the previous version. For the same reason, the new section has also deleted reference to "cancellation" of an applicant's prior qualification, as unnecessary. The final rule requires updating when a substantial change has occurred in applicant's situation prior to a loan.

The proposed rule set no single loan limit, but specified a $100,000 aggregate limit, beyond which additional loans to the same firm would require a finding that such loans would be "in the best interest of the government". The final regulation provides at § 800.203 for a $50,000 single loan limit. The standard for aggregate loans exceeding $100,000 to the same firm is no longer the "best interest of the government"; rather, the general deviation standard of § 800.204(a) applies, namely, Secretarial determination as to necessity or appropriateness to achieve program objectives. Applicant's affiliates are included under aggregate loan limit. A Federal fiscal year time frame is used, rather than calendar year.

Comment: The Minority Business Development Agency (MBDA) urges that DOE loan up to 100% of costs of preparing a bid or proposal.

Response: DOE lacks authority under section 211(e) to cover more than 75% of costs.

Section 800.006, titled "Allowable Costs", has been renumbered § 800.200. The new section adds the requirement of consistency with bidding cost principles of applicable procurement regulations. It adds, as allowable expense categories, "engineering" and "consulting" fees, but excludes expenses "which, in DOE's judgment, have primarily an application broader than the specific loan request." The section eliminates needless verbiage in previous § 800.006(a). The new section also adds travel and transportation costs and costs of preparing a loan application under this rule as now allowable.

Section 800.102 titled "Findings" has been renumbered § 800.201. The new section was reworded without substantial change in order to provide a clearer objective standard for applicant and reviewing officials alike. The earlier requirement that a borrower's share be available (§ 800.102(f)) has been shifted to "Terms and Conditions" (see new § 800.202(c)). Express reference has been included (§ 800.201(e)) to the statutory requirement that the interest rate be set in consultation with Treasury (was § 800.101(g)). In addition, the new section emphasizes the duty to repay (was § 800.004) regardless of the success of a borrower's bid (§ 800.201(f)).

Comment: The Small Business Administration (SBA) suggests that DOE consider adding criteria for general creditworthiness to its regulation, and consider ensuring that contract awards are sufficient in amount to cover the loan costs with adequate credit controls.

In addition, SBA suggests that a size limitation on subcontractors of DOE operating contractors be established so as to minimize opportunities for fraud or abuse.

SBA is also concerned that DOE, in reviewing qualification data of an applicant, recognize that minority businesses may have less corporate and personnel experience than majority-owned businesses.

Response: The Controller's office will provide a risk analysis per DOE Order 5700.5. In DOE's opinion, such analysis, with adherence to the evaluation and oversight provisions of the regulation, should be adequate to avoid borrower overextension and to deter fraud and abuse.

Section 800.101 titled "Terms and Conditions" has been renumbered § 800.202. This section has been revised considerably without substantive changes. As revised, this section now achieves several purposes. It now sets

out key loan provisions in more logical order (basic documents; principal/rate/time, etc.) and in chronological order (execution by contracting officer; repayment; default; periodic reports; maintenance of good standing; return of unused funds). It provides a "checklist" for the contracting officer. It provides, by reference to other sections of the regulation, for inclusion of key loan provisions, without reciting them at length. It permits flexibility on collateral security requirements and repayment.

New § 800.202 now provides for basic loan documents consisting of loan agreement and separate promissory note, with provision for incorporation by reference between the two documents. Former § 800.300 failed to provide for a promissory note and thus varied from current DOE practice (see, for example, 10 CFR Part 797, 797.50). Former § 800.101(b) required collateral security for loans over $25,000. Revised § 800.202(d) gives the Secretary discretion to require collateral security without regard to loan size, when in the best interest of the United States to do so.

Comment: A comment was received to the effect that DOE specify when collateral in not required.

Response: The Secretary's discretion to require collateral security, when in the best interest of the United States to do so, avoids setting inflexible criteria based on loan amount alone.

Repayment was to start within 90 days of "loan approval," an additional 180 days applied to loans over $25,000 (former § 800.101(d)). New § 800.202(a)(3) now provides for repayment to begin within 90 days following the date of initial disbursement or such longer period as may be acceptable to the Secretary. The schedule of maximum loan maturities was modified to account for the 90-day period in which repayment could be deferred. The 90-day period is not intended to negate the possibility of loan repayment in equal monthly installments over a defined period of maturity. In place of the former 60-day grace period (§ 800.101(e)), flexible grace periods are within Secretarial discretion (§ 800.202(a)(4); § 800.304(d)). New § 800.202(a)(2) also drops the former (§ 800.101(g)), slightly narrower measure of interest (Federal "issues of the same maturity as the particular loan") in favor of the more flexible "taking into consideration of current average market yields of outstanding marketable obligations of the United States having maturities comparable to the loan".

Comment: The Minority Business Development Agency (MBDA) regards the method for establishing an interest rate as tending to produce an unreasonably high rate.

Response: The general interest rate "formula" in § 800.202(a)(2) was established in consultation with the Department of the Treasury and reflects DOE's compliance with the requirement of section 211(e) of the Act in that regard.

Acceleration by U.S.: Shifted from previous § 800.101(k) to § 800.304(a), the general provision on default. *Disbursement:* Now (§ 800.202(a)(5)) gives Secretary greater flexibility in loans over $10,000 by dropping former (§ 800.101(h)) requirement that disbursements be in increments of $5,000. *Good standing:* Changed from a requirement of the "project" (former § 800.101 (l)) to a more meaningful requirement of the "business" as a whole (§ 800.202(a)(8)). *Periodic reports:* Was covered by various sections calling for annual updates (§ 800.203(c)) and servicer reports (§ 800.401(a)(5)). Now reports are required as a term of the loan, regarding bid or proposal (§ 800.202(a)(7)), and as to working capital, financial ratios, in Secretarial discretion (§ 800.202(c)). *Interest past due:* The final rule calls for an interest rate on past due installments which is the quarterly current-value-of-funds rate specified by the Treasury for overdue accounts (§ 800.202(a)(3)). This section is in accord with a recommendation made by the DOE Controller. *"Equity":* New provision at § 800.202(a)(6) expressly makes the statutory 75% limit a term of loan; allows borrower's sunk costs to be credited toward borrower's 25%, but preserves the "equity" concept by prohibiting reimbursement from loan proceeds.

Section 800.008(a) titled "Deviations and Contract Modifications" has been renumbered § 800.204(a). The new section provides the Secretary, rather than the Director, OMEI, with authority to operate flexibly within the regulation.

Former §§ 800.400–800.401 and 800.007, dealing with loan servicing, have been incorporated into a new § 800.300, which drops a statement of preference in favor of minority servicing agents, as unauthorized under the legislation.

Comment: The Small Business Administration recommended that loan servicing be contracted only to servicers sensitive to borrower needs "beyond technical credit policing". Another comment suggested that DOE use "minority-owned financial institutions" for loan servicing. Other comments suggested that SBA, Minority Enterprise Small Business Investment Companies (MESBIC's) or other minority financial institutions should be considered; that loan servicing agents be required to assure and demonstrate compliance with the Act; that commercial banks with a history of providing loans to minority enterprises be selected for this purpose, the rationale being that the minority businesses could establish a credit relation with such an institution and would eventually be independent of federal funds.

Response: DOE has retained flexibility to choose among different types of financial institutions for the loan servicing function, if it so desires, giving, as the regulation now states (§ .300(a)), "due consideration to the experience of the agent in providing financial services to minority business enterprises". The preference in the possible selection criteria in favor of minority institutions as servicing agents was deleted to avoid any charges of possible discrimination. However, DOE will require that loan servicers comply with DOE's program requirements and understand the unique nature of this program and its beneficiaries.

Comment: The proposed loan program "lacks a long-range plan for shifting these burdens from the government to the private sector."

Response: This program was created by Congress to fill a perceived need of minority businesses to obtain credit. To the extent that the program enables more minority enterprises to compete successfully for DOE-related business, to become more profitable and to establish banking relations with financial institutions, it will have contributed toward reducing the need of such businesses to avail themselves of this program.

Among other, less significant, changes, § 800.405 titled "Default" has been renumbered § 800.304 and eliminates reference to various kinds of excusing incidents ("acts of God * * * fires, floods * * *" etc.) in favor of the more flexible standard, "circumstances largely beyond the control of the borrower". Also, the section eliminates the non-fault requirement in favor of a less-legalistic requirement that failure be unintentional; adds express reference to the Secretary's inherent power to regard incident of default as "insubstantial"; and adds a provision that the Secretary's restructuring of the loan must be acceptable to the borrower.

Comment: It was recommended that DOE specify when the Secretary may defer performance under the loan agreement.

Response: Section 800.304 allows the Secretary the programmatic flexibility to determine when a deferment of

performance should be provided in the interest both of the United States and of the borrower.

Section 800.404 dealing with "Appeals" has been renumbered § 800.307. The new section adds a provision for *prompt* reconsideration by the contracting officer. The appeal period was extended from 30 to 60 days.

Comment: Honorable Edward Roybal suggested "The Appeals Process should have a time limit in order to permit a speedy review and decision by the Appeals Board."

Response: The Federal Assistance Appeals Board rule at 10 CFR Part 1024 provides for speedy review and decision.

A new § 800.305 adds standard information disclosure provisions.

A standard section (§ 800.306) dealing with "Noninterference-with-other-laws", has been added.

III. Text of Authorizing Legislation

For convenience, the pertinent text of subsections 211(e) and 211(f) of the Act is printed below.

Sec. 211 "(e)(1) The Secretary, acting through the Office, may provide financial assistance in the form of loans to any minority business enterprise under such rules as he shall prescribe to assist such enterprises in participating fully in research, development, demonstration, and contract activities of the Department to the extent he considers appropriate. He shall limit the use of financial assistance to providing funds necessary for such enterprises to bid for and obtain contracts or other agreements, and shall limit the amount of the financial assistance to any recipient to not more than 75 percent of such costs.

"(2) The Secretary shall determine the rate of interest on loans under this section in consultation with the Secretary of the Treasury.

"(3) The Secretary shall deposit into the Treasury as miscellaneous receipts amounts received in connection with the repayment and satisfaction of such loans. "(f) As used in this section, the term—

"(1) 'minority' means any individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent;

"(2) 'minority business enterprise' means a firm, corporation, association, or partnership which is at least 50 percent owned or controlled by a minority or group of minorities * * *"

IV. Additional Information

In accordance with Section 1(b) of Executive Order 12291, DOE has determined that this regulation is not a major rule under any of the several criteria listed in the Order. The likelihood of annual economic effect on the $100 million scale seems wholly improbable; the amount appropriated for the loan, research and technical assistance programs for FY 1981 is $3.2 million; the Administration's amended FY 1982 budget request is $1.4 million for continuation of the program. Moreover, the program is designed to function within existing cost and price structures and to contribute, however modestly, to competition, employment, investment and productivity. DOE has submitted this rule for review by the Office of Management and Budget (OMB) under the Executive Order.

Note.—The Regulatory Flexibility Act (Pub. L. No. 96-354), requires a "regulatory flexibility analysis" of a regulation when its adoption may cause significant economic impact on a substantial number of small commercial, nonprofit or governmental entities. This regulation is designed to achieve economic effects beneficial to minority business enterprises, in the form of increased opportunity to compete for DOE-related business. In its final version, this regulation reflects DOE's attempt to accommodate, within its limited loan program, suggestions which it actively and directly solicited from the minority business sector, for a loan program operated simply and with dispatch, on relatively advantageous terms, with requirements no more stringent than prudence dictates. Therefore, the Secretary of Energy has certified that this regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

OMB has approved the collection of information contained in this rule. Clearance number is 1901-0242, expiring August 3, 1984.

Issued in Washington, D.C. August 25, 1981.

James B. Edwards,

Secretary of Energy.

Accordingly, new Part 800 to Title 10, Code of Federal Regulations is added as follows:

PART 800—LOANS FOR BID OR PROPOSAL PREPARATION BY MINORITY BUSINESS ENTERPRISES SEEKING DOE CONTRACTS AND ASSISTANCE

Subpart A—General

800.001 Purpose.
800.002 Programs management.
800.003 Definitions.
800.004 Eligibility.

Subpart B—Solicitation, Application and Review

800.100 Solicitation of applications.
800.101 Application requirements.
800.102 Review by application evaluation panel.
800.103 Review by application approving official.

Subpart C—Loans

800.200 Maximum loan; allowable costs.
800.201 Findings.
Sec.
800.202 Loan terms and conditions.
800.203 Loan limits.
800.204 Deviations.

Subpart D—Loan Administration

800.300 Loan servicing.
800.301 Monitoring.
800.302 Loan limitation.
800.303 Assignment or transfer of loan.
800.304 Default.
800.305 Disclosure.
800.306 Noninterference with other laws.
800.307 Appeals.

Authority: Section 211(e) of the Department of Energy (DOE) Organization Act, Public Law 95-91, Title II, as amended by Public Law 95-619, Title VI, Section 641, November 9, 1978, 92 Stat. 3284, codified at 42 U.S.C.A. 7141.

Subpart A—General

§ 800.001 Purpose.

The purpose of this regulation is to set forth policies and procedures for the award and administration of loans to minority business enterprises. The loans are to assist such enterprises in participating fully in research, development, demonstration and contract activities of the Department of Energy. The loans are to defray a percentage of the cost of obtaining DOE contracts and other agreements, including procurements, cooperative agreements, grants, loans and loan guarantees, and of obtaining first-tier subcontracts with DOE operating contractors. Issuance of loans under this regulation is limited to the extent funds are provided in advance in appropriation acts. This regulation implements the authority for such loans in Section 211(e) of the Department of Energy (DOE) Organization Act, Pub. L. 95-91, Title II, as amended by Pub. L. 95-619, Title VI, section 641, November 9, 1978, 92 Stat. 3284 (42 U.S.C.A. 7141).

§ 800.002 Program management.

Program management responsibility for financial assistance awarded under this regulation has been assigned to the Office of Minority Economic Impact.

§ 800.003 Definitions.

For the purpose of this regulation:

"Act" means the DOE Organization Act, Public Law 95-91, Title II, as amended by the National Energy Conservation Policy Act, Public Law 95-619, Title VI, section 641.

"Applicant" means a minority business enterprise which is seeking a loan under this regulation.

"Application Approving Official" means the Director of the Office of Minority Economic Impact.

"Application Evaluation Panel" (also referred to as the "Panel") means a team

of Federal employees appointed by the Application Approving Official to evaluate loan applications and make approval or disapproval recommendations regarding such applications.

"Borrower" means an applicant who enters into a loan agreement with DOE.

"Contracting Officer" means the DOE official warranted and authorized to contractually bind the Department of Energy and execute written agreements that are binding on the Department.

"Costs" of a bid or proposal means the cost of preparing, submitting and supporting a bid or proposal, whether solicited or not, for a DOE contract or other agreement such as a procurement contract, grant, cooperative agreement, loan or loan guarantee or a first-tier subcontract with a DOE operating contractor.

"Default" means the actual failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan issued under this regulation, or the failure of the borrower to meet any other requirement specified as a default condition in the loan agreement.

"Director" means the Director of the Office of Minority Economic Impact (OMEI).

"Loan", in reference to a loan made pursuant to the regulation, means a transaction in which a contractual instrument ("loan agreement") is executed between the United States, as lender, acting through the Secretary of Energy, and a borrower. The instrument must obligate the United States to provide the borrower with a specified amount(s) of United States funds for a specified period of time and must obligate the borrower to use the moneys to bid for and attempt to obtain contracts and other agreements relating to DOE research, development, demonstration and contract activities, and to repay the moneys at a specified time at an agreed rate of interest. The words 'loan', 'loan agreement' and 'transaction' include (where the context does not require otherwise) the terms and conditions of related documents, such as the borrower's note or bond or other evidence of, or security for, the borrower's indebtedness.

"Minority Business Enterprise" means a firm including a sole proprietorship, corporation, association, or partnership which is at least 50 percent owned or controlled by a member of a minority or group of members of a minority. For the purpose of this definition, 'control' means direct or indirect possession of the power to direct, or cause the direction of, management and policies, whether through the ownership of voting securities, by contract or otherwise. An individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut, or is a Spanish speaking individual of Spanish descent, is a member of a "minority" as used in this regulation.

"Operating Contractors" means contractors under contracts having one of the following purposes, in accordance with the provisions of § 9.50.001(a)(1) of the DOE procurement regulations (Title 41, Code of Federal Regulations, Part 9–50):

(a) DOE prime contracts for the management of Federal Government-owned laboratories, production plants, and research facilities located on Federal Government-owned or Federal Government-leased sites, where the programs being conducted are considered of a long-term, continuing nature; or

(b) DOE prime contracts for the operation of Federal Government-owned facilities located on contractor-owned or leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Federal Government-owned facilities, for the purpose of conducting long-term basic research programs.

(c) Other contracts performed on sites owned by the Federal Government when so designated by the appropriate procurement official.

"Secretary" means the Secretary of the Department of Energy or his delegate.

§ 800.004 Eligibility.

In order to be eligible for a loan, an applicant must be a minority business enterprise as defined in § 800.003.

Subpart B—Loan Solicitation, Application and Review

§ 800.100 Solicitation of applications.

The Secretary will periodically issue an announcement soliciting applications under this regulation. The announcement will be published in the **Federal Register**, synopsized in the *Commerce Business Daily*, and circulated to minority trade associations and organizations and to the Minority Business Development Agency and Small Business Administration. The announcement will indicate funds availability, eligibility requirements, application instructions, interest rates, maturities and other key loan terms and any applicable restrictions.

§ 800.101 Application requirements.

(a) Applications for loans shall be filed, one original and three copies with: Department of Energy, Washington, D.C. 20585, Attention: Announcement No. DE–PS60–MI.

(b) An application for a loan under this regulation must include the following information. Items described in paragraphs (b)(1)–(7) of this section may be submitted for preliminary review in advance of a specific loan request but must be updated at time of loan request to reflect substantial changes.

(1) Applicant's name and address, with a description of the kind and size of its business, its business experience and its history as a minority business enterprise.

(2) Financial statements of applicant and its principals, including source of revenue and balance sheets for the current year and, as to applicant, for the two preceding years of applicant's existence as a business entity. The Secretary may require applicant to provide certification by a public accountant, or other certification acceptable to the Secretary.

(3) A description of any other Federal financial backing (direct loans, guaranteed loans, grants, etc.) applied for or obtained by the applicant within the previous five years, or expected to be applied for.

(4) A description of applicant's management structure, with list of applicant's key persons with their responsibilities and qualifications.

(i) In the case of a specific loan request this list should include any contractor or consultant whose services are proposed in connection with the bid or proposal for which the loan is sought.

(5) Affidavit(s) of eligibility (see § 800.004).

(6) Documentation as to applicant's authority to undertake the activities contemplated by the application. Such documentation shall take substantially the following form:

(i) If the applicant is a corporation, a copy of the charter or certificate and articles of incorporation, with any amendments, duly certified by the Secretary of State of the State where organized, and a copy of the by-laws. There shall also be included a copy of all minutes, resolutions of stockholders or directors or other representatives of the applicant, properly attested, authorizing the filing of the application.

(ii) If the applicant is an association, a verified copy of its articles of association, if any, with an attested copy of the resolution of its governing

board, if any, authorizing the filing of the application.

(iii) If the applicant is a business trust, a verified copy of the trust instrument and an attested copy of the resolution or other authority under which the application is made.

(iv) If the applicant is a joint stock company, a verified copy of the articles of association and of the authorizing resolution.

(v) If the application is made on behalf of a partnership, a copy of the partnership agreement, if any; if on behalf of a limited partnership, a duly certified copy, also, of the certificate of limited partnership, if such certificate is required to be obtained under state law governing such limited partnership.

(7) Credit references.

(8) Information on the award to be sought through the bid or proposal, as follows:

(i) Title, and whether in response to a solicitation or unsolicited.

(ii) Brief description of work to be performed.

(iii) Sponsoring DOE office, including solicitation number, if any.

(iv) If an unsolicited proposal is planned, the loan application shall indicate the appropriate DOE program personnel to be consulted as to whether there is potential for the proposal to be supported.

(v) Schedule for preparation and submission of the bid or proposal.

(9) Itemized cost estimates (and whether yet incurred).

(10) The required loan amount, not to exceed 75 percent of total bid or proposal costs, in accordance with § 800.200 on allowable costs.

(11) Requested loan maturity, in accordance with § 800.202(a)(3).

(12) How applicant will finance performance of work under a successful bid or proposal.

(13) Such other information as the Application Approving Official may deem necessary for evaluation in accordance with § 800.103 and for compliance with the provisions of this regulation.

(14) The application shall be signed by the applicant or on behalf of the applicant by an authorized representative. Verification may be by affidavit of an authorized representative of an applicant; attestation shall be by the authorized officer of an applicant.

Note.—Title 18 United States Code, section 1001 provides criminal penalties for fraud and intentional false statements in information submitted in such an application.

§ 800.102 Review by Application Evaluation Panel.

(a) Applications for loans under this regulation shall be reviewed by an Application Evaluation Panel, which shall be appointed by the Application Approving Official. The Panel shall include, at a minimum, a representative of the Office of Minority Economic Impact, the contracting officer and a representative of the Office of the Controller.

(b) Panel review shall be conducted pursuant to paragraph (c) or (d) of this section, as applicable, to evaluate, to clarify and to develop information contained in the application and such other information as the Application Approving Official or the Panel may request.

(1) The Panel shall give priority to applications relating to a competitive solicitation, because of time limits on such solicitations. The Panel may defer action a maximum of five days after a solicitation has been announced in the *Commerce Business Daily* to provide all interested applicants an opportunity to apply.

(2) Initial screening will be in the order applications are received, but time required to process an application may vary from case to case.

(c) Panel review of specific loan requests.

(1) If an application contains a specific loan request, and complies with § 800.101, the Panel shall arrange for risk analysis, independent of any such analysis submitted by or on behalf of the applicant. Risk analysis shall be directed both to the loan request and to applicant's prospective performance of work pursuant to the bid or proposal.

(2) The Panel shall evaluate the loan request in light of the risk analysis, and shall give its conclusions in writing to the Application Approving Official, with respect to the following and to such other considerations as that official may direct:

(i) Applicant's eligibility as a minority business enterprise.

(ii) Compliance with the application requirements of § 800.101.

(iii) Compliance with § 800.200 on allowable costs.

(iv) Applicant's financial ability to make the bid or proposal without the loan.

(v) Applicant's contribution of, or ability to contribute, the 25% minimum share of allowable costs, or more.

(vi) Applicant's ability to prepare an adequate bid or proposal, if the loan is made.

(vii) Possibility of award to applicant pursuant to its bid or proposal.

Note.—Normally, not more than three loans will be approved for the same competitive award.

(viii) Applicant's ability to perform pursuant to the bid or proposal.

(ix) Likelihood that applicant will repay the requested loan, regardless of success of applicant's bid or proposal.

(x) Optimal use of available program funds.

(xi) The Panel's recommendation.

(d) Panel review of other applications. If the application was submitted without a specific loan request, the Panel shall review the application in accordance with paragraph (b) of this section with the limited purpose of determining whether the applicant has complied with § 800.101, except as to matters determinable only with respect to a future specific loan request, and shall inform the Application Approving Official in writing as to its determinations.

§ 800.103 Review by application approving official.

(a) The Application Approving Official shall consider the results of the Panel's review under section 102 (c) or (d), and such other information as the Application Approving Official determines to be relevant pursuant to the provisions of this regulation, and shall either approve or disapprove the application, giving it priority in accordance with the provisions of § 800.102(b).

(b) The Application Approving Official shall authorize a contracting officer to notify the applicant of approval or disapproval.

(c) An applicant whose application has been rejected will be informed, on request, of the reason for rejection. Rejection is not a bar to submission of an appropriately revised application.

Subpart C—Loans

§ 800.200 Maximum loan; allowable costs.

(a) A loan under this regulation shall not exceed 75 percent of allowable costs of a bid or proposal to obtain a DOE contract or other agreement (such as a procurement contract, cooperative agreement, grant, loan or loan guarantee), or a first-tier subcontract with a DOE operating contractor.

(b) To be allowable, costs must, in DOE's judgment:

(1) Be consistent with the bidding cost principles of the Federal Procurement Regulation (41 CFR, Ch. 1, 1–15.205–3) and DOE Procurement Regulation (41 CFR, Ch. 9, 9–15.205–3); and,

(2) Be necessary, reasonable and customary for the bid or proposal contemplated by the application; and

(3) Be incurred, or expected to be incurred, by the applicant.

(c) Costs which are, in general, allowable, if consistent with paragraph (b) of this section include, but are not limited to:

(1) Bid bond premiums.

(2) Financial, accounting, legal, engineering and other professional, consulting or similar fees and service charges.

(3) Printing and reproduction costs.

(4) Travel and transportation costs.

(5) Costs of the loan application under this rule.

(d) Costs that are not considered as allowable costs include the following:

(1) Fees and commissions charged to the applicant, including finder's fees, for obtaining Federal funds.

(2) Expenses, which, in DOE's judgment, have primarily an application broader than the specific loan request.

(3) Costs which, in DOE's judgment, fail to conform to subsection (b).

§ 800.201 Findings.

A loan shall issue under this regulation only if the Secretary, having reviewed the action of the Application Approving Official, and having considered such other information as the Secretary may deem pertinent, has made all the findings that follow:

(a) That the applicant is a minority business enterprise.

(b) That the loan will assist the enterprise to participate in the research, development, demonstration or contract activities of the Department of Energy by providing funds needed by applicant for bid or proposal purposes.

(c) That, by terms of the loan, applicant's use of the funds will be limited to bidding for and obtaining a contract or other agreement with the Department of Energy, or a first-tier subcontract with a DOE operating contractor.

(d) That the funds to be loaned will not exceed 75% of applicant's costs in bidding for and obtaining the contract or agreement.

(e) That the rate of interest on the loan has been determined in consultation with the Secretary of the Treasury.

(f) That there is a reasonable prospect that the applicant will make the bid or proposal which is the purpose of the loan, will perform according to its bid or proposal, and will repay the loan according to the terms thereof, regardless of the success of its bid or proposal.

(g) That the terms and conditions of the loan are acceptable to the Secretary and comply with this regulation and with section 211(e) of the Department of Energy Organization Act.

§ 800.202 Loan terms and conditions.

(a) The loan shall be based upon a loan agreement and the borrower's separate promissory note for the proceeds of the loan, including interest. The agreement and note shall be executed in writing between the borrower and the Secretary. The contracting officer shall execute the loan agreement on behalf of the Secretary. The loan agreement and the promissory note shall provide as follows, either at full length or by incorporation by reference to terms of the other of the two documents.

(1) The borrower agrees to repay the loan of funds provided by the Secretary.

(2) The interest rate on the loan is as established in consultation with the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the loan.

(3) The loan shall be repaid over a maximum period as follows, in equal monthly installments of principal and interest, unless a different frequency of installments is specified by the Secretary:

Loan value	Maximum repayment[1]
$0—$5,000	3 years 3 months.
$5,000—$25,000	5 years 3 months.
Excess of $25,000	8 years 3 months.

[1] Maximum repayment period from date of initial disbursement.

Repayment of principal and interest shall begin within 90 days following the initial loan disbursement or such longer period as may be acceptable to the Secretary. Installments shall be applied to accrued interest first and then to repayment of principal. Past due installments shall accrue interest at the quarterly current-value-of-funds-rate specified by the Treasury for overdue accounts. Prepayments may be made at any time without penalty.

(4) The borrower shall have appropriate opportunities, as specified in the loan agreement, to cure any default, failure, or breach of any of the covenants, conditions and obligations undertaken by the borrower pursuant to the provisions of the loan agreement.

(5) Loans of $10,000 or less will be disbursed in a single disbursement. Disbursement of loans larger than $10,000 shall be per schedule and documentation specified by the Secretary.

(6) The loan may be used by the borrower to defray as much as, but no more than, 75 percent of the cost of the bid or proposal within the limitations specified in § 800.200, on allowable costs. Costs incurred by the borrower prior to the effective date of the loan agreement, and allowable under § 800.200, may be credited toward the borrower's share of costs if, in DOE's judgment, they were primarily related to the bid or proposal, but shall not be reimbursed from the loan.

(7) The borrower shall make periodic reports regarding the bid or proposal.

(8) The borrower shall maintain good standing under Federal, State and local laws and regulations applicable to the conduct of its business, including current payment of all taxes, fees and other charges and all requisite licenses and other governmental authorization necessary for the continued operation of the business throughout the term of the loan.

(9) The borrower shall remain a minority business enterprise throughout the term of the loan.

(10) The borrower shall return funds disbursed, but not required together with accrued interest thereon, to DOE, or to the servicing agent, if applicable, when its bid or proposal is ready for submission. The return of unrequired funds shall be by check separate from any payment of interest or principal, shall be identified by the borrower as a return of unrequired funds, and shall be accompanied by the borrower's certification that so much of the loan as has been disbursed to the borrower and not returned has been, or will be, expended by the borrower for costs allowable under § 800.200.

(11) Such other provisions as the Secretary deems appropriate.

(b) The loan agreement shall also provide for loan servicing and monitoring in accordance with § 800.300 and § 800.301, loan limitation in accordance with § 800.302, assignment and transfer in accordance with § 800.303, default in accordance with § 800.304 and appeals in accordance with § 800.307.

(c) The Secretary may require, as preconditions to disbursement, that the borrower have specified amounts of working capital (including amounts derived from Federal financial assistance) and maintain specified financial ratios, where in the Secretary's judgment satisfaction of such preconditions is necessary to assure the borrower's ability to make and perform the contract, agreement or subcontract according to the bid or proposal, or is

otherwise necessary to protect the interests of the United States.

(d) The Secretary may require pledges, personal guarantees and other collateral security, and the maintenance of insurance on the borrower's assets and principals, in amounts and on terms appropriate in the Secretary's judgment, to protect the interests of the United States.

§ 800.203 Loan limits.

The Secretary shall not make a loan in excess of $50,000, or make aggregate loans to the same minority business enterprise, including its affiliates, in any Federal fiscal year in excess of $100,000. In addition, the Secretary shall not increase a loan to an amount which would cause the limits set forth in the previous sentence to be exceeded. Nothing in this regulation shall be interpreted to restrict the Secretary, in making the various determinations provided for in this regulation, from taking into account considerations relating to the Office of Minority Economic Impact loan program as a whole.

§ 800.204 Deviations.

(a) To the extent consistent with the Act, relevant appropriations acts, and other applicable statutes, DOE may deviate on an individual application basis from the requirements of this regulation upon a finding by the Secretary that such deviation is necessary or appropriate in the individual case for the accomplishment of program objectives.

(b) The contracting officer may, subject to written agreement by other necessary parties, modify or amend the terms and conditions of a loan provided that such modification or amendment shall be consistent with this regulation.

Subpart D—Loan Administration

§ 800.300 Loan servicing.

(a) Servicing of a loan under this regulation may be performed by DOE, by another Federal agency, or by a servicing agent (commercial bank, broker, or other financial institution or entity) having the capability, and legally qualified, to service the loan consistently with the requirements of this regulation, which contracts with DOE to act as servicing agent. In determining the capability of a prospective servicing agent, DOE shall give due consideration to the experience of the agent in providing financial services to minority business enterprises.

(b) If the servicing of the loan is by contract or other agreement, such contract or other agreement shall provide that the loan shall be serviced in accordance with this regulation and with the terms and conditions of the loan, under a standard of performance that a reasonable and prudent lender would require as to its own similar loan. Servicing responsibilities shall include, but not necessarily be limited to, the following:

(1) Loan disbursements as set forth in the loan agreement.

(2) Collection of principal and interest payments on a monthly basis.

(3) Maintenance of records on loan accounts.

(4) Notification of the Secretary, without delay, as to the following:

(i) That the initial disbursement or loan drawdown is ready to be made, together with evidence from the borrower that the bid or proposal preparation has begun or is about to begin.

(ii) The date and amount of each subsequent disbursement under the loan.

(iii) Any nonreceipt of payment within 10 days after the date specified for payment, together with evidence of appropriate notification to the borrower.

(iv) Any known failure by the borrower to comply with the terms and conditions of the loan agreement.

(v) Evidence, if any, that the borrower is likely to default on any condition set forth in the loan agreement or may be unable to make the next scheduled payment of principal or interest.

(5) Submittal to DOE of periodic (semi-annual or annual) reports on the status and conditions of the loan and of the borrower.

§ 800.301 Monitoring.

The Secretary shall have the right to audit any and all costs of the bid or proposal for which the loan is sought or made and to exclude or reduce the includible amount of any cost in accordance with § 800.200. Auditors who are employees of the United States Government, who are designated by the Secretary of Energy or by the Comptroller General of the United States, shall have access to, and the right to examine, any directly pertinent documents and records of an applicant or borrower at reasonable times under reasonable circumstances. The servicing agent, if any, shall make information regarding the loan available to the Secretary of Energy and Comptroller General to the extent lawful and within its ability. The Secretary may direct the applicant or borrower to submit to an audit by public accountant or equivalent acceptable to the Secretary.

§ 800.302 Loan limitation.

The Secretary may limit the loan by written notice to the borrower to those amounts, if any, already disbursed under the loan, if the Secretary has determined that the borower has failed to comply with a material term or condition set forth in the loan agreement.

§ 800.303 Assignment or transfer of loan.

Assignment or transfer of the loan and obligations thereunder may be made only with the prior written consent of the Secretary.

§ 800.304 Default.

(a) In the event that the borrower fails to perform the terms and conditions of the loan, the borrower shall be in default and the Secretary shall have the right, at the Secretary's option, to accelerate the indebtedness and demand full payment of all principal and interest amounts outstanding under the loan.

(b) No failure on the part of the Secretary to make demand at any time shall constitute a waiver of the rights held by the Secretary.

(c) Upon demand by the Secretary, the borrower shall have a period of not more than 30 days from the date of receipt of the Secretary's demand to make payment in full.

(d) In the event that the failure on the part of the borrower to perform the terms and conditions of the loan does not constitute an intentional act, but is brought about as a result of circumstances largely beyond the control of the borrower, or is deemed by the Secretary to be insubstantial, the Secretary may elect, at the Secretary's option, to defer such performance and/or restructure the repayment required by the loan agreement in any mutually acceptable manner.

(e) Should the borrower fail to pay after demand as provided in paragraph (c) of this section, and no deferral or restructuring is agreed to by the Secretary as provided in paragraph (d) of this section, the Secretary shall undertake collection in accordance with the terms of the loan agreement and the applicable law.

§ 800.305 Disclosure.

Information received from an applicant by DOE may be available to the public subject to the provision of 5 U.S.C. 552, 18 U.S.C. 1905 and 10 CFR Part 1004; provided that:

(a) Subject to the requirements of law, information such as trade secrets, commercial and financial information, and other information concerning the minority business enterprise that the

enterprise submits to DOE in writing, in an application, or at other times throughout the duration of the loan on a privileged or confidential basis, will not be disclosed without prior notice to submitter in accordance with DOE regulations concerning public disclosure of information. Any submitter asserting that the information is privileged or confidential should appropriately identify and mark such information.

(b) Upon a showing satisfactory to the Secretary that any information or portion thereof obtained under this regulation would, if made public, divulge trade secrets or other proprietary information of the minority business enterprise, the Secretary may not disclose such information.

(c) This section shall not be construed as authority to withhold information from Congress or from any committee of Congress upon request of the Chairman.

§ 800.306 Noninterference with other laws.

Nothing in this regulation shall be construed to modify requirements imposed on the borrower by Federal, State and local government agencies in connection with permits, licenses, or other authorizations to conduct or finance its business.

§ 800.307 Appeals.

Any dispute concerning questions of fact arising under the loan agreement shall be decided in writing by the contracting officer. The borrower may request the contracting officer to reconsider any such decision, which reconsideration shall be promptly undertaken. If not satisfied with the contracting officer's final decision, the borrower, upon receipt of such written decision, may appeal the decision within 60 days in writing to the Chairman, Financial Assistance Appeals Board (FAAB), Department of Energy, Washington, D.C. 20585. The Board shall proceed in accordance with the Department of Energy's rules and regulations for such purpose. The decision of the Board with respect to such appeals shall be the final decision of the Secretary.

[FR Doc. 81-25707 Filed 9-3-81; 8:45 am]

BILLING CODE 6450-01-M

federal register

Friday
September 4, 1981

Part VII

Department of Energy

Economic Regulatory Administration

Import and Export of Natural Gas; New Administrative Procedures; Proposed Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 205 and 590

[Docket No. ERA-R-81-05]

Import and Export of Natural Gas; New Administrative Procedures; Proposed Rule

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Proposed rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is publishing for public comment a proposed rule to establish administrative procedures regarding applications to import or export natural gas under Section 3 of the Natural Gas Act. ERA is presently utilizing the Federal Energy Regulatory Commission (FERC) procedures set forth in 18 CFR Chapter 1, and the ERA procedures regarding off-the-record communications in 10 CFR Part 205, Subpart U, to exercise its natural gas import and export authority. The administrative procedures proposed in this rule are different in approach from the FERC practice and reflect the institutional differences between ERA and FERC. They will expedite natural gas import and export proceedings while at the same time protecting the rights of the parties. Proceedings generally will be in an informal manner through written comments and oral presentations; evidentiary hearings will be reserved for those situations where the hearing is necessary to obtain a full and true disclosure of the facts, such as resolving genuine disputes of material issues of fact. The most substantial changes from existing FERC practice are the deviation from holding evidentiary hearings as a matter of course and the elimination of the requirement that either the ultimate decision-maker or an Administrative Law Judge preside at hearings.

DATES: Written comments are due by November 3, 1981, 4:30 p.m. Requests to speak are due by September 29, 1981, 4:30 p.m.

Hearing to be held on October 7, 1981, at 10:00 a.m., e.d.t. and continued if necessary at the same location on the next business day.

ADDRESS: All written comments and requests to speak at the public hearing should be sent to the Office of Public Hearings Division, Economic Regulatory Administration, Docket No. ERA-R-81-05, Room B-210, RG-33, 2000 M Street, N.W., Washington, D.C. 20461.

HEARING LOCATION: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Cynthia A. Ford (Public Hearings Division), Economic Regulatory Administration, 2000 M Street, N.W., Room B-210, Washington, D.C. 20461, (202) 653-3971.

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055

Lawrence A. DiRicco (Division of Natural Gas), Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, Washington, D.C. 20461, (202) 653-3220

Michael T. Skinker (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6E-042, Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Rule
A. General
B. Definitions
C. Small Volume Exports
D. Summary of Proceedings on Applications
1. General
2. Applications
3. Notice of Application
4. Intervention
5. Notice of Procedures
6. Procedures
(a) Opportunity for Additional Procedures
(b) Conferences
(c) Oral Presentations
(d) Evidentiary Hearings
7. Shortened Proceedings
E. Opinions and Orders
1. Conditional Decisions
2. Emergency Relief
3. Final Opinions and Orders
4. Reports of Changed Circumstances
F. Applications for Rehearing
G. Filing and Processing Fees
III. Comment and Hearing Procedures
A. Written Comments
B. Public Hearings
1. Procedures for Request to Make Oral Presentation
2. Conduct of the Hearings
IV. Environmental Analysis
V. Executive Order 12991
VI. Compliance with the Regulatory Flexibility Act
VII. Amendments of Existing ERA Rules

I. Background

The authority to regulate imports or exports of natural gas is derived from Section 3 of the Natural Gas Act (NGA) (Act of June 21, 1938, C. 556, Stat. 821-833, 15 U.S.C. 717-717W). Until the passage of the Depaartment of Energy Organization Act of 1977 (DOE Act) (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.)*, the NGA Section 3 authority was exercised by the former Federal Power Commission (FPC) and implemented pursuant to its regulations in 18 CFR Chapter 1. Sections 301(b) and 402(f) of the DOE Act transferred this authority to the Secretary of Energy (Secretary) who further delegated it to the Administrator of the ERA by DOE Delegation Order 0204-4. Areas of responsibility between ERA and the FERC were further delineated by DOE Delegation Orders No. 0204-25 (to ERA) and 0204-26 (to FERC) (43 FR 47769, October 17, 1978). These delegation orders were superseded by DOE Delegation Orders No. 0204-54 (to ERA) and 0204-55 (to FERC) (44 FR 56735, October 2, 1979).

Under the delegation orders, the Administrator [1] maintains authority over natural gas imports and exports to the extent that they concern energy policies on a regional, national and international scale. Under Delegation Order No. 0204-54, the Administrator must determine whether a proposed import or export is consistent with the public interest based on certain considerations, such as: (1) the security of supply and the effect on U.S. balance of payments of imported gas, (2) the price to be charged at the border, (3) consistency with DOE regulations and statements of policy, (4) national need for natural gas to be imported or exported, and (5) other considerations inherent in Section 3 of the NGA, such as regional need for the gas to be imported or exported and, for imported gas, the eligibility of purchasers and participants and their respective shares. In exercising these functions, the Administrator may attach terms and conditions determined to be necessary to ensure that a proposed import or export is consistent with the public interest. The FERC, which is an independent agency within DOE, was delegated authority by the Secretary over site specific issues, particulary those relating to facilities and the point of importation, and any other residual authorities under Section 3 not exercised by the Administrator.

On December 7, 1977, the Administrator gave notice (42 FR 61856) that the regulations of the former FPC, contained in 18 CFR Chapter 1, would be utilized by the ERA to the extent that they apply to natural gas import or export cases and until such time as ERA issued its own regulations. ERA later issued regulations establishing procedures to govern "off-the-record

[1] For purposes of this preamble and regulation, the term "Administrator" refers to the Administrator of ERA or any other employee of DOE who has been or will be delegated final decisional authority for Section 3 import or export applications.

communications" in natural gas import and export cases and electricity export cases. (10 CFR Part 205, Subpart U) (43 FR 39080, September 1, 1978). These procedures also dealt with the role of DOE staff members in the decisional process under Section 3. These existing provisions regarding off-the-record communications in Subpart U, as applicable to the natural gas import and export proceedings under Section 3, have been incorporated into Section 590.108 of this proposed rule with certain modifications discussed below. Upon promulgation, this rule will supersede the current rule.

The ERA is proposing these administrative procedures under its general rulemaking authority in section 644 of the DOE Act to advise the public of and receive comment on the Department's proposed procedures for administering and managing its natural gas import and export authorities. Specially, this proposal establishes the procedures that will now be required to be followed by persons filing applications to obtain authorization to import or export natural gas and other persons interested in participating in natural gas import or export proceedings.

II. Proposed Rule

A. General

In addition to the authority to regulate natural gas imports and exports, the Secretary is authorized by Section 102(10) of the DOE Act, *inter alia*, to establish and implement, in coordination with other federal agencies, policies regarding international energy issues. The Secretary is authorized to undertake activities involving the integration of domestic and foreign energy policy, which includes engaging in discussions and negotiation with foreign governments and their representatives concerning international cooperation on energy matters and negotiation of individual arrangements of direct benefit to U.S. energy supply. Therefore, the procedures by which the Secretary, through the Secretary's delegate, the Administrator, will exercise the authority to make decisions on applications to import or export natural gas cannot be determined in a vacuum and independent of the Department's broad-based authority and responsibility regarding national energy policy.

In many cases, these governmental discussions and negotiations result in application being filed with ERA by U.S. commercial entities to import or export natural gas. The key issues in most natural gas import of export cases before ERA involve questions of national and international energy policy, including *inter alia*, the need for the gas to be imported or exported, the security of imported supplies, and the reasonableness of the price. The latter may include consideration of the price of other imports involving the same or other foreign governments. Therefore, individual cases can involve far-reaching policy issues which may affect large segments of the natural gas industry or the nation or impact upon sensitive foreign policy negotiations.

ERA is, therefore, proposing these procedures in recognition of the reality of the broad policy overtones of individual import and export cases and the dual, but overlapping, national and international energy functions of the Department. The procedures are designed to account for this institutional structure, which is different from that of a collegial body such as the FERC, and to ensure that the due process rights of the parties are protected while achieving a full and fair disclosure of the facts and airing of the issues.

The proposed procedures will simplify the decision-making process and expedite the proceedings. ERA will have flexibility in handling import and export applications. For the most part, ERA will be able to tailor the type of proceeding to the needs of the case depending on the nature and complexity of the issues involved. Generally, ERA is proposing to process most applications in an informal manner through written responses and comments and, where appropriate, oral presentations on the facts, law, or policy. Formal adjudicatory-type evidentiary hearings would be reserved for those situations where the evidentiary hearing is necessary to obtain a full and true disclosure of the facts such as resolving genuine disputes of material factual issues. This differs from the existing FERC practice where evidentiary hearings are normally held as a matter of course.

The proposed procedures differ from the formal adjudicatory hearing procedures of Sections 556 and 557 of the Administrative Procedures Act (APA), which apply to adjudications required to be determined "on the record after opportunity for agency hearing." Section 3 import and export decisions are not such cases. The proposed procedures do, however, closely parallel the APA procedure and provide the parties rights in evidentiary hearings which are comparable to those in APA adjudications, such as the right to be represented by counsel, to request discovery, to present witnesses, to cross-examine witnesses under oath, and to present documentary evidence. The proposed procedures differ from the APA adjudicatory practice in that they do not include the requirement that either the final decision-maker or an Adminstrative Law Judge preside at evidentiary hearings.

These procedures are also being proposed, in part, to replace the existing ERA regulations regarding off-the-record communications in natural gas import or export cases. (10 CFR Part 205, Subpart U, 43 FR 39080, September 1, 1978). The existing regulations prohibit communications, relevant to the merits of formal adjudications to determine whether to grant an application to import or export natural gas between DOE employees who are involved in the decision-making process and "interested persons," unless there is adequate prior notice of the communication to all participants. The existing regulations do not prohibit communications relating solely to procedures which are not relevant to the merits of the proceeding. They also do not prohibit general background discussions about an entire industry or communications of a general nature made in the course of developing agency policy for future general application. In addition, the existing regulations allow the Administrator to eliminate the separation of staff functions in certain situations. The option of a separation of functions was retained from the FERC practice because there were several cases still pending before the Administrator when the regulations were promulgated which had been tried before an ALJ at FERC by FERC staff counsel who were and needed to remain separate from the decision-making process.

This proposal incorporates the existing regulations with some substantive modifications as well as minor editorial and technical changes. First, the prohibition on making off-the-record communications is made applicable to all "contested" import or export proceedings, not just formal adjudications (§ 590.102(b)). A "contested proceeding" is a proceeding either where a protest or a petition to intervene (or a notice of intervention) in opposition to an application or other requested action has been filed or where a party otherwise notifies the Administrator that it opposes an application or other requested action. A party may notify ERA of its opposition to a requested action at any time in the proceeding. This definition of "contested proceeding" assures that a party's failure to state any opposition at the time it files a motion to intervene or

notice of intervention does not preclude it from opposing the requested action based on later developed facts or issues and, thus, triggering the prohibition on off-the-record communications at that time. In addition, the proposed rule eliminates ERA's notice of an evidentiary hearing as an independent trigger of the prohibition on making off-the-record communications, since the Administrator may determine to hold evidentiary hearings in non-contested proceedings to elicit facts or other information.

Second, the definition of a "decisional employee" has been broadened to eliminate separation of staff functions in all cases by including within the definition employees of the Department performing investigative or trial-type functions in evidentiary hearings (§ 590.102(c)). This will permit the Department's staff involved in the proceedings to assist the decision-maker in the deliberative process and the resolution of the issues, and is consistent with recent ERA practice. For example, in the Columbia LNG, *et al.* proceeding (ERA Docket No. 79-14-LNG) concerning an increase in the price of Algerian liquefied natural gas (LNG) imported into the East Coast, staff members cross-examined witnesses, sponsored their own witnesses, and then participated in assisting the ultimate decision-maker.

The proposed rule also excludes foreign governments and their representatives, if they are not parties in an individual case, from being considered "interested persons" for purposes of off-the-record communications with decisional employees (§ 590.102(i)). This change is necessary in light of the Department's dual international energy responsibilities discussed above which must be carried out in a consistent and coordinated fashion. Authorized employees of the Department must be free to maintain open channels of discussion with foreign governments regarding broad national and international energy issues which may be involved in a particular import or export proceeding or result in an individual import or export application being filed with the ERA. The ultimate decision-maker must be free to consult with those same employees regarding the policy implications of a particular import or export application.

ERA, however, intends to protect the rights of the parties by placing in the record any formal policy agreement or statement resulting from any relevant discussions conducted between Department employees and foreign governments on the particular import or export proceedings, to the extent those documents apply to the proceeding, and permit the parties the right to comment upon them during the proceeding before any final decision or order will be made.

When discussions involving the Department and a foreign government occur prior to, and result in the filing of, an application with ERA to import or export natural gas or are necessary after an application has been filed, ERA intends to handle the case in the following manner. In the **Federal Register** notice published by ERA to notify the public of the receipt of an application under Section 3 of the NGA, ERA will include any formal agreement or statement, and describe the terms or policy positions upon which any agreement was reached. Any agreement or statement, thus, would become part of the proceeding and persons and parties would have the same right to comment upon them as they would on any other aspect of the proceeding. As discussed below, the mere filing of comments on this, or any other aspect of the application, would not entitle the party commenting to additional procedures, such as a conference, oral presentation or evidentiary hearing. The party commenting must specifically request these additional procedures in accordance with these regulations (See §§ 590.308, 590.309, 590.310, 590.311) and make the appropriate showing depending on the procedure requested.

B. Definitions (§ 590.102)

Proposed § 590.102 sets out the definitions applicable to the import and export procedures proposed in this rule. Some terms have been amended from those promulgated in ERA's earlier off-the-record communications rule (10 CFR 205.206(b)), and include, "Administrator," "decisional employee," "interested person," "natural gas," "off-the-record communication," and "person." Other terms are being proposed here for the first time, and include, "presiding official," "proceeding," "contested proceeding," "party," and "State Commission." Some definitions previously adopted in 10 CFR 205.206(b) have been deleted as unnecessary to these new procedures, including "participant," "relevant to the merits," and "adjudication."

The terms "contested proceeding," "decisional employee," and "interested persons" have been discussed above.

The term "Administrator" has been expanded to include any employee of DOE who has been delegated final decisional authority.

The term "presiding official" has been added because the proposed procedures permit the Administrator to designate an employee of DOE to preside at a conference, oral presentation, or evidentiary hearing held by ERA in response to the filing of a natural gas import or export application. The presiding official has the authority to make the necessary rulings and orders to regulate the conduct of the proceeding; but does not necessarily have the authority to issue final opinions and orders and orders on rehearing.

The definition of "natural gas" has been expanded to include specifically ice-gels composed primarily of natural gas. Since recent developments in technology may permit the surface transportation of natural gas in gel form, ERA has determined to treat it as another form of natural gas subject to the procedures proposed in this rule.

C. Small Volume Exports (§ 590.208)

The Federal Power Commission in its Order 548 (41 FR 2144, May 17, 1976) found expeditious treatment of small volume natural gas export applications to be in the public interest. The proposed rule would expand that policy by permitting the export of up to 100,000 cubic feet of natural gas for scientific, experimental, or other non-utility use without prior authorization, on the condition that persons making such exports report the details of the transactions to ERA within fifteen (15) days of the export. This will eliminate the need of filing applications for small export authorizations and of ERA's issuing orders.

D. Summary of Proceedings on Applications

1. General (§ 590.201). Any person seeking to obtain authorization to export natural gas from the United States into a foreign country or import natural gas into the United States from a foreign country or to amend a previous import or export authorization must file an application with the ERA at least 60 days in advance of the proposed action.

2. Applications (§§ 590.202, 590.203 and 590.207). Under the proposed rules applications must, among other information, identify the persons submitting the application and otherwise involved in the transaction, describe the action sought from ERA, justify the requested action, and describe any new or existing facilities required to implement the requested action. Each application shall address among other matters the scope of the project, the source and security of the natural gas supply, the terms of the transactions, the proposed cost to be

charged for the natural gas at the border, the applicant's need for a proposed import and the impact of the project on the environment. The Administrator may require additional material to be submitted at any time during the proceeding (§ 590.202).

If an application is incomplete or otherwise deficient, the applicant will be required to submit additional information or exhibits needed to remedy the deficiency within a specified time. If the deficiency is not corrected, the application may be dismissed without prejudice to refiling at another time (§ 590.203).

3. *Notice of Application (§ 590.205).* ERA will publish a notice in the **Federal Register** of each application received. The notice will specify a period of time, usually at least fifteen days from the date of publication, in which persons may file a motion to intervene or a notice of intervention (§ 590.303), a protest (§ 590.304) or comments on the application. The notice may request comments on specific issues of fact, law, or policy raised by the application. The notice will advise the parties of their right to request the procedures that they want followed in the proceeding should the Administrator determine that further procedures are necessary. These procedures could include the filing of extensive written comments (including data, arguments, briefs, etc.), and the holding of a conference, oral presentation, or evidentiary hearing. If a request for additional procedures is not made during the period of time specified in the notice, the parties shall be deemed to have waived their rights to request additional procedures should the Administrator decide to grant the application and authorize the import by issuing a final opinion and order based on the notice and any responses thereto, in accordance with Section 590.314 of the proposal. As discussed above, the notice may also include the result of any relevant DOE discussions with foreign governments.

4. *Intervention (§ 590.303).* The proposed rule liberalizes the procedures by which persons interested in participating in a proceeding may become a party. Under proposed § 590.303, a person filing a motion to intervene requesting to be a party will be granted intervenor status if, within fifteen (15) days of filing, no answer in opposition to their motion to intervene is filed and the Administrator has not denied the motion within that time. When an answer in opposition has been filed, the Administrator will decide whether intervenor status shall be granted. Any party may file an answer to a motion to intervene within fifteen (15) days of the filing of the motion. This privilege, however, does not preclude the Administrator from ruling on the motion or from issuing a final opinion and order in accordance with § 590.314 ("Shortened Proceedings"), prior to the expiration of the fifteen (15) days.

5. *Notice of Procedures (§ 590.206).* In all proceedings where the Administrator determines to have additional procedures including the filing of further written comments or the holding of a conference, oral presentation, or evidentiary hearing, the Administrator will notify the parties of the procedures to be followed in the proceeding (See "Procedures" below) and advise the parties of their right to request additional procedures in accordance with the provisions of this regulation. This notice will be provided after the close of the period specified in the notice of application for filing responses thereto. The Administrator may, at this time, request comments on specific issues of fact, law, or policy relevant to the proceedings.

6. *Procedures.* Generally, the Administrator intends to handle most cases solely by requesting written comments on an application and by granting oral presentations upon request. Evidentiary hearings will be reserved for those situations where such procedures are demonstrated to be necessary for a full airing of the facts, such as resolving disputes of material issues of fact. Any person may submit written comments to ERA in response to a notice of application on any aspect of the case. Only a party, however, has the right to request that a conference, oral presentation or evidentiary hearing be held on an application. A party has the right to make the request at any time during the proceeding prior to the issuance of a final opinion and order.

(a) *Opportunity for Additional Procedures (§ 590.308).* At any time prior to the issuance of a final opinion and order any party may file a motion requesting additional procedures, including the right to file written comments or to have a conference, oral presentation, or evidentiary hearing. The motion shall described the type of procedure requested and include the information required by §§ 590.309, 590.310, and 590.311 as appropriate. As noted above, the parties may be deemed to have waived their right to request additional procedures if they do not file the motion during the period specified in the notice of application and the Administrator may issue a final opinion and order in accordance with § 590.314.

(b) *Conferences (§ 590.309).* Upon the initiative of the Administrator or presiding official or upon the motion of a party, a conference of the parties may be convened for many purposes, including adjusting and setting the proceedings, discussing the need for and scheduling further proceedings, delineating issues, stipulating to certain issues of fact or law, and considering other relevant matters where it appears that a conference will materially advance the proceeding. Any party making a motion for a conference should include a specific showing why a conference will materially advance the proceeding.

The conference will be an informal meeting of the parties, the conduct of which will be governed by the presiding official. It will be stenographically recorded in most cases, and a copy of the transcript made a part of the docket in the proceeding and available to the public.

(c) *Oral Presentations* (§ 590.310). The Administrator or presiding official may convene an oral presentation for the purpose of hearing oral statements or arguments on delineated issues of fact, law or policy relevant to the proceeding, if the Administrator or presiding official determines that such an oral presentation will materially advance the proceeding and that the issues cannot be adequately discussed through written submissions.

A party may on its own motion request an opportunity to make an oral presentation if its views, arguments and data on any aspect of the proceeding. The party's motion should demonstrate why the issues cannot be adequately discussed in written submissions and identify any substantial questions of fact, law or policy at issue and may contain supporting material. The motion will be granted if the Administrator determines that a substantial question of fact, law or policy that can be adequately elucidated by an oral presentation is at issue in the proceeding.

The parties may be required to file briefs or other documents prior to the oral presentation. In order to promote the free flow of information, the oral presentation will be conducted in the manner of an informal rulemaking proceeding with one or more decisional employees acting as panel members and either the Administrator or a presiding official conducting the proceeding. Presentations and arguments may be made by counsel, but need not be. Decisional employees may question the parties making presentations, but cross-examination by the parties and other more formal procedures used in

evidentiary hearings will not be available.

(d) *Evidentiary Hearings (§ 590.311).* The Administrator or presiding official may convene an evidentiary hearing for the purpose of taking evidence on relevant and material issues of fact including resolving disputed issues of fact, if the Administrator or presiding official determines that such hearings will materially advance the proceeding and the issues cannot be adequately discussed through written submissions or at an oral presentation.

A party on its own motion may request the opportunity for an evidentiary hearing for the purpose of taking evidence on factual issues. The party should identify the issues and demonstrate that they are relevant and material to the decision and that an evidentiary hearing is necessary to obtain a full and true disclosure of the facts. The motion will be granted if the Adminstrator determines that there is a relevant and material factual issue that is genuinely in dispute and that an evidentiary hearing is necessary to a full and true disclosure of the facts.

The proceeding will be conducted similar to formal adjudicatory hearings with the parties having the following rights: to be represented by counsel, to request discovery, to present direct and rebuttal testimony of witnesses, to cross-examine witnesses under oath, and to present documentary evidence. The hearing will be presided over by either the ultimate decision-maker, *i.e.*, the Administrator, or by a designated presiding official who will participate in the decisional process. The presiding official may make any necessary rulings, including denial of cross-examination of a witness and decisions regarding subpoenas and depositions, that are necessary to regulate the conduct of the hearing, to obtain a full and true disclosure of the facts, and to limit irrelevant, immaterial, and unduly repetitious evidence. Other Department staff members who are decisional employees may assist the presiding official in eliciting information by presenting witnesses for testimony, presenting exhibits, or cross-examining witnesses offered by the parties. These staff employees, however, will not perform adversarial roles

Any party, the Administrator, or the presiding official may request that any other party admit to the truth of any matters at issue that relate to statements or opinions of fact or the application of law to fact (§ 590.307). The use of admissions is intended to reduce the need for presentation of witnesses to introduce or verify factual matters that are relevant to reaching a decision.

7. Shortened Proceedings (§ 590.314). In any proceeding where, after being given a reasonable opportunity, no party requests to file written comments or to have a conference, oral presentation or evidentiary hearing or where the Administrator determines that such requested additional procudures are not required, the Administrator may issue a final opinion and order after consideration of the record, including the application and all other filings. For example, we anticipate that shortened proceedings would be applicable to most situations where a government-to-government agreement has been reached, unless intervenors demonstrate that further proceedings are warranted.

The Administrator will not deny any application solely on the basis of the application and responses to the notice of application without first advising the applicant and all other parties generally of the issues of concern and on which the denial may be based and without first providing them with an opportunity to request additional procedures, including the right to file written comments or to have a conference, oral presentation, or evidentiary hearing in accordance with the provisions of this regulation.

E. Opinions and Orders

1. Conditional Decisions (§ 590.402). The Administrator may issue a conditional decision prior to issuance of a final opinion and order. A conditional decision would be appropriate in cases where a need exists for an indication of the Administrator's preliminary findings and conclusions, but additional information is needed before a final decision and order can be rendered.

As an example, the issuance of a conditional decision may be appropriate when the application at issue involves the importation of LNG into new terminal facilities. In such a case the Administrator reviews the application to determine if the proposed importation is in the public interest based on the considerations within the Administrator's jurisdiction, while, concurrently, the FERC must review other aspects of the proposed importation such as siting, construction, and operation of the LNG receiving terminal facilities.

Since decisions on such applications are usually major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environment Policy Act (NEPA, Pub. L. 91.190, 83 Stat. 852 (42 U.S.C. 4321)), an environmental impact statement (EIS) would usually be prepared to assess the impacts of and alternatives to the proposed project. The EIS would then be used by both FERC and the Administrator in making their respective decisions on the application. Since the terminal facilities potentially would involve the larger environmental impact, the FERC would generally be the lead agency for preparing an EIS. Before expending the time and resources needed to develop an EIS, the FERC would benefit from a preliminary indication from the Administrator regarding consistency of the importation with the public interest. However, before the Administrator could render a final decision, the Administrator would need to review the completed EIS. Issuing a conditional decision in such circumstances would provide the FERC, the parties, and the public the benefit of knowing the Administrator's preliminary determination, while at the same time assuring that the Administrator and FERC would take no major or irreversible actions before final consideration of the environmental consequences and available alternatives.

2. Emergency Relief (§ 590.403). In emergencies, the Administrator may waive further procedures an issue an interim order authorizing the import or export of natural gas. After issuance of the interim order, the proceeding would be continued until the record was complete, at which time, a final opinion and order would be issued. Implicit in this authority is the authority to attach conditions protecting consumers or other persons from the adverse effects of any emergency interim approval if, after completion of further proceedings, it is determined that the interim approval should not have been issued. The Administrator will provide the public with as much notice of the application and opportunity to comment as the emergency permits.

3. Final Opinions and Orders (§ 590.404). All final opinions and orders would include a statement of findings and conclusions as well as the reasons or basis for them, and the appropriate order, sanction, relief, or denial. Authorizations to export or import would not be transferable or assignable except upon order of the Administrator. (§ 590.405).

4. Reports of Changed Circumstances (§ 590.407). Persons authorized by the Administrator to import or export natural gas would have a continuing obligation to give the Administrator written notification in a timely fashion of any substantive changes to the circumstances surrounding the transaction including changes in contracts, terms, prices, or volumes applicable to the project. This provision

is intended to provide notice to the Administrator of matters, which may necessitate further action to ensure that authorizations remain consistent with the public interest. Compliance with this section does not relieve importers from their obligation to file the appropriate application to amend a previous import or export application, where actions being contemplated are inconsistent with an existing authorization.

F. Applications for Rehearing (§ 590.501)

Any party aggrieved by the issuance of a final opinion and order or an emergency interim order may file an application for rehearing of that decision (§ 590.501). Applications for rehearing must be filed within thirty (30) days after issuance of the final opinion and order or an emergency interim order. It must also specify, with particularity, the alleged errors in the order and set forth the grounds upon which the application for rehearing is based. The filing of an application for rehearing does not operate as a stay of the Administrator's decision or order unless specifically ordered by the Administrator (§ 590.502). The Administrator may grant or deny rehearing or may abrogate or modify the final opinion and order or an emergency interim order, with or without further proceedings (§ 590.503). Unless acted upon by the Administrator within thirty (30) days of filing, an application for rehearing would be considered denied (§ 590.504). No answers to the application for rehearing would be entertained. Prior to issuance of a final opinion and order on rehearing, however, the Administrator may decide to afford the parties an opportunity to file briefs or answers or may order that a conference, oral presentation or evidentiary hearing be held on some or all of the issues presented by an application for rehearing (§ 590.504).

G. Filing and Processing Fees

Section 590.207 of the proposed rule continues the current practice of requiring a non-refundable $50 filing fee for all initial applications and amendments to applications. Nevertheless, we are currently reviewing whether the filing fee should be increased substantially and whether other fees to cover the cost of processing applications, including applications for rehearing, may be appropriate. We note that the FERC has proposed a rule requiring the collection of various fees related to the costs of processing applications filed under the Natural Gas Act (FERC Docket No. RM79-63, 46 FR 42075, August 19, 1981).

Therefore we are requesting comment on whether ERA should establish fees sufficient to recover the direct costs associated with the processing and consideration of applications to import or export natural gas, particularly evidentiary proceedings initiated by the applicant or a party. We request specific comments on the amounts which should be charged, whether a single general fee should be developed or a schedule of individual fees established, whether any such fees should be of a fixed amount or variable amount, and under which circumstances, if any, fees should be waived.

III. Comment and Hearings Procedures

A. Written Comments

You are invited to participate in any aspect of this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in today's rulemaking. Where the comments are critical of the proposed rule, alternative language should be provided wherever possible. The rationale and any data in support of the changes should also be provided.

Written comments must be submitted by 4:30 p.m., November 3, 1981, to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on the document with the designation: "Proposed Rulemaking Natural Gas Import/Export Procedures (Docket No. ERA-R-81-05)." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E-190, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments received by 4:30 p.m., November 3, 1981, and all other relevant information will be considered by DOE before final action is taken on this proposed regulation.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearings

1. Procedures for Request to Make Oral Presentation. The time and place for the hearing are indicated in the "Dates" and "Hearing Location" sections of this preamble.

If you have any interest in the matters discussed in this proposed rulemaking, or represent a group or class of persons that has an interest, you may make a written request to Karene Walker, Public Hearings Division, Economic Regulatory Administration, 2000 M Street, NW., Room B-210, RG-33, Washington, D.C. 20461, (202) 653-3986, for an opportunity to make oral presentation by 4:30 p.m., September 29, 1981. You should provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., October 1, 1981. One hundred copies of your statement are due one work day prior to the date of the hearing and should be delivered to the address indicated in the "Addresses" section. In the event any person wishing to testify cannot meet the 100 copy requirement, alternative arrangements can be made in advance of the hearing by so indicating in a letter requesting an oral presentation or by calling the Public Hearings Division at (202) 653-3986.

2. Conduct of the Hearings. We reserve the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation based on the number of persons requesting to be heard. We encourage groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the groups.

An ERA official will be designated to preside at the hearing. This will not be a judicial type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations determined by the presiding official.

If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer. Any further procedural rules needed will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 1E-190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public

Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:330 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

IV. Environmental Analysis

After reviewing this proposed regulation pursuant to DOE's responsibilities under NEPA, DOE has determined that the proposed rule is procedural in nature and does not constitute a major Federal action significantly affecting the quality of the human environment. It is noteworthy that an individual determination with respect to the level of NEPA documentation is made for each import or export application filed in accordance with the proposed procedures. DOE, therefore, has determined that no environmental impact statement is required for the proposed rule.

V. Executive Order 12291

Executive Order 12291 (46 FR 13193, February 19, 1981) required the agencies subject to it to prepare a regulatory impact analysis for all major rules, as defined in the Order. We have determined that the proposed procedural rule is not major and the preparation of a regulatory impact analysis is therefore not required. Our decision in this regard is based on the following determinations: the proposal is not likely to result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In accordance with the requirement of Section 3(c)(3) we have submitted a copy of the proposed rule to the Director of the Office of Management and Budget.

VI. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (September 19, 1980)), requires Federal agencies to consider the impact of proposed regulations on small businesses, small governments, and other small entities, to consider the ability of small entities to comply with the proposed regulation, and to consider less stringent alternative compliance standards for small entities. An agency is required to prepare a regulatory flexibility analysis to document its consideration of these factors, except in the situation where the agency determines that a regulation will not have a significant economic impact on a substantial number of small entities. DOE certifies that, for the reasons discussed below, the promulgation of this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis will not be prepared.

This proposed rule sets forth simplified or revised procedures under which persons may apply for authorization to import or export natural gas, or by which other persons may participate in the consideration by the Administrator of such applications. The proposed rule eases the existing regulatory burden on both groups by reducing the amount of information and the number of documents required in an application for an import or export authorization. The proposed rule also makes certain authorizations self-effectuating (e.g. small volume exports) thereby eliminating the need for agency action on a case-by-case basis. Finally, the proposed rule considers an evidentiary hearing, which can be a costly burden on many of the parties, to be an exceptional proceeding which will only be convened under limited circumstances, rather than being held as a matter of course.

In our view, it is unlikely that a "small entity" will ever have the capacity to engage in the importation or exportation of natural gas. At present, such imports or exports can only be transported by natural gas pipeline or liquefied natural gas vessel. Of the 29 firms authorized to import or export natural gas, 16 are major interstate natural gas pipeline companies, 1 is a consortium of such companies, 10 are intrastete natural gas companies, and 2 are large integrated oil companies. For the foreseeable future the size and nature of firms seeking authorization under the proposed rules are expected to remain the same.

We expect that this proposed rule will have a positive impact on those persons which may be small entities interested in participating in a particular import or export proceeding. The number of small entities participating in such proceeddings is low, usually less than 5 and rarely more than 15. Even if the number of small entities affected by this proposal were greater, the impact will be minimal and less than that of existing rules. A copy of this proposed rule has been transmitted to the Chief Counsel for Advocacy of the Small Business Administration as required by Section 605(b) of the Regulatory Flexibility Act.

VII. Amendments of Existing ERA Rules

At present the only ERA rules applicable to natural gas import and export proceedings are those contained in 10 CFR Part 205, Subpart U—Procedures for Natural Gas and Electricity Import and Export Cases. Because of the need to maintain the applicability of Subpart U to electricity export adjudications, this proposed rule only amends Subpart U to the extent necessary to eliminate all applicability to natural gas import and export proceedings. The substance of the rule will remain the same with respect to electricity export cases.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101, *et seq.*); Natural Gas Act, Act of June 21, 1938, c. 556, 52 Stat. 821 (42 U.S.C. 717 *et seq.*); E.O. 10485, 18 FR 5397; E.O. 12009, 42 FR 46267)

In considering of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by amending Part 205 and adding a Part 590 to Subchapter G, as set forth below.

Issued in Washington, D.C. on August 26, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. Subpart U of Part 205, Chapter II of Title 10, Code of Federal Regulations is proposed to be revised to eliminate its applicability to natural gas import and export cases and to read as follows:

Subpart U—Procedures for Electricity Export Cases

Sec.

205.260 Purpose and scope.
205.270 Off-the-record communications.

Subpart U—Procedures for Electricity Export Cases

§ 205.260 Purpose and scope.

(a) The purpose of this section is to state the procedures that will be followed by the Economic Regulatory Administration of the Department of Energy in electricity export adjudications.

(b) Definitions.

As used in this subpart—

"Administrator" means the Administrator of the Economic Regulatory Administration.

"Decisional employees" means the Administrator, presiding officers at adjudicatory hearings, and other employees of the Department, including consultants and contractors, who are, or may reasonably be expected to be, involved in the decision-making process, which includes advising the Administrator in resolving the issues in an adjudication. The term does not include those employees of the Department performing investigative or trial functions in an adjudication, unless they are specifically requested by the Administrator or his delegate to participate in the decision-making process.

"Department" means the Department of Energy.

"Off-the-record communication" means an *ex parte* communication, which is an oral or written communication relevant to the merits of an adjudication and not on the record and with respect to which resonable prior notice to all participants and opportunity to be present at, or respond to, the communication is not given, but does not include a communication relating solely to procedures which are not relevant to the merits of the adjudication.

"Interested person" means a person outside the Department whose interest in the adjudication goes beyond the general interest of the public as a whole and includes applicants, intervenors, competitors of applicants, non-profit and public interest organizations, and other individuals and organizations, including state, local and other public officials, with a proprietary, financial or other special interest in the outcome of the adjudication. The term does not inlcude other federal agencies, unless an agency is a participant in the adjudication.

"Participant"means any applicant or intervenor participating in the adjudication.

"Adjudication" means a formal proceeding employing procedures identical or similar to those required by the Administrative Procedure Act, as codified in 5 U.S.C. 551, 556, and 557, to consider an application to export electricity.

"Reasonable prior notice" means 7 days written notice stating the nature and purpose of the communication.

"Relevant to the merits" means a communication directly related to the merits of a specific adjudication but does not include general background discussions about an entire industry or communications of a general nature made in the course of developing agency policy for future general application.

§ 205.270 Off-the-record communications.

(a) In any proceeding which is subject to this subpart—

(1) No interested person shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any decisional employee.

(2) No decisional employee shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any interested person.

(3) A decisional employee who receives, makes, or knowingly causes to be made an oral communication prohibited by this section shall prepare a memorandum stating the substance of the communication and any responses made to it.

(4) Within 48 hours of receiving, making or knowingly causing to be made a communication prohibited by this section, a decisional employee shall deliver all written off-the-record communications and all memoranda prepared in compliance with paragraph (a)(3) of this section to the Chief of the System Reliability and Emergency Reponse Branch, ERA who will immediately place the materials described above in the public record associated with the adjudication, available for public inspection.

(5) Upon receipt of a communication knowingly made or knowingly caused to be made by a participant in violation of this section, the Administrator or presiding officer may, to the extent consistent with the interests of justice and the applicable statutory policy, require the participant to show cause why his or her claim or interest in the adjudication should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the violation.

(6) The prohibitions of this section shall apply beginning at the time an adjudication is noticed for hearing (or the person responsible for the communication acquires knowledge that it will be noticed), a protest is filed, or a petition or notice to intervene in opposition to the requested Department action is filed, whichever occurs first.

(b) The prohibition, cited at 18 CFR 1.30(f), against participation in the decision-making process by Department employees who perform investigative or trial functions in an adjudication shall no longer be applicable to ERA.

2. Subchapter G, of Chapter II of Title 10, Code of Federal Regulations is hereby amended by adding a Part 590, to read as follows:

PART 590—ADMINISTRATIVE PROCEDURES WITH RESPECT TO THE IMPORT AND EXPORT OF NATURAL GAS

Subpart A—General Provisions

Sec.

590.101 Purpose and scope.
590.102 Definitions.
590.103 General requirements for filing documents with ERA.
590.104 Address for filing documents.
590.105 Computation of time.
590.106 Dockets.
590.107 Service.
590.108 Off-the-record communications.
590.109 ERA investigations.

Subpart B—Applications for Authorization To Import or Export Natural Gas

590.201 General.
590.202 Contents of applications.
590.203 Deficient applications.
590.204 Amendment or withdrawal of applications.
590.205 Notice of applications.
590.206 Notice of procedures.
590.207 Filing fees.
590.208 Small volume exports.

Subpart C—Procedures

590.301 General.
590.302 Motions.
590.303 Intervention.
590.304 Protests.
590.305 Subpoenas.
590.306 Depositions.
590.307 Admissions of facts.
590.308 Opportunity for additional procedures.
590.309 Conferences.
590.310 Oral presentations.
590.311 Evidentiary hearings.
590.312 Presiding officials.
590.313 Witnesses.
590.314 Shortened proceedings.
590.315 Reopening the record.

Subpart D—Opinions and Orders

590.401 Orders to show cause.
590.402 Conditional decisions.
590.403 Emergency relief.
590.404 Final opinions and orders.
590.405 Transferability.
590.406 Compliance with orders.
590.407 Reports of changed circumstances.

Subpart E—Applications for Rehearing

590.501 Filing.
590.502 Application is not a stay.
590.503 Opinion and order on rehearing.

Sec.

590.504 Denial by operation of law.
590.505 Answers to applications for rehearing.

Authority: Sec. 301(b), Sec. 402(f), and Sec. 644, Pub. L. 95-91, 91 Stat. 578, 585, and 599 (42 U.S.C. 7151(b), 7172(f), and 7254), Sec. 3, Act of June 21, 1938, c. 556 52 Stat. 822 (15 U.S.C. 717b); E.O. 10485, 18 FR 5397, 3 CFR 1949-53 Comp.; E.O. 12009, 42 FR 46267, 3 CFR 1977 Comp.

Subpart A—General Provisions

§ 590.101 Purpose and scope.

The purpose of this part is to establish the rules and procedures required to be followed by persons to obtain authorizations from the Administrator to import or export natural gas under Section 3 of the Natural Gas Act and by all other persons interested in participating in a natural gas import or export proceeding.

This Part establishes the procedural rules necessary to implement the authorities vested in the Secretary of Energy by Sections 301(b) and 402(f) of the Department of Energy Organization Act, which have been delegated to the Administrator.

§ 590.102 Definitions.

As used in this Part:

(a) "Administrator" means the Administrator of ERA or any other employee of DOE who has been delegated final decisional authority.

(b) "Contested proceeding" means a proceeding (1) where a protest or a motion to intervene or a notice of intervention in opposition to an application or other requested action has been filed, or (2) where a party otherwise notifies the Administrator that it opposes an application or other requested action.

(c) "Decisional employee" means the Administrator, presiding officials at conferences, oral presentations or evidentiary hearings, and any other employee of the DOE, including consultants and contractors, who is, or may reasonably be expected to be, involved in the decision-making process, including advising the Administrator on resolving the issues in a proceeding. The term specifically includes those employees of the DOE performing investigative or trial-type functions in evidentiary hearings.

(d) "DOE" means the Department of Energy, including ERA.

(e) "DOE Act" means the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

(f) "EIS" means an Environmental Impact Statement prepared pursuant to the requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.* (1976)) and 10 CFR Part 1021.

(g) "ERA" means the Economic Regulatory Administration.

(h) "FERC" means the Federal Energy Regulatory Commission.

(i) "Interested person" means a person, other than a DOE employee, consultant or contractor, whose interest in a proceeding goes beyond the general interest of the public as a whole and includes applicants, intervenors, competitors of applicants, and other indiviudals and organizations, including non-profit and public interest organizations, and other individuals and organizations including state, local, and other public officials, with a proprietary, financial or other special interest in the outcome of a proceeding. The term does not include other federal agencies or foreign governments and their representatives, unless the agency, foreign government, or representative of a foreign government is a party to the proceeding.

(j) "Natural gas" means natural gas and mixtures of natural gas and synthetic natural gas, regardless of physical form or phase, including liquefied natural gas and gels primarily composed of natural gas.

(k) "NGA" means the Natural Gas Act, Act of June 21, 1938, c. 556, 52 Stat. 821 (15 U.S.C. 717 *et seq.*).

(l) "Off-the-record communication" means a written or oral communication not on the record which is relevant to the merits of a proceeding, and about which the parties have not been given reasonable prior notice or an opportunity to be present at or respond to the communication, but does not include communications concerned solely with procedures which are not relevant to the merits of a proceeding. It also does not include general background discussions about an entire industry or communications of a general nature made in the course of developing agency policy for future general application.

(m) "Party" means any applicant, any person who has filed a motion for and been granted intervenor status or whose motion to intervene is pending, and any state commission who has intervened by notice pursuant to § 590.303(a) of this part.

(n) "Person" means any individual, firm, estate, trust, partnership, association, company, joint-venture, corporation, United States local, state and federal governmental unit or instrumentality thereof, charitable, educational or other institution, and others, including any officer, director, owner, employee, or duly authorized representative of any of the foregoing.

(o) "Presiding official" means any employee of DOE who has been designated by the Administrator to preside at a conference, oral presentation, or evidentiary hearing and who has been delegated the authority to make rulings and issue orders, other than final opinions and orders, temporary or interim emergency orders, or conditional decisions under Subpart D and orders on rehearing under Subpart E.

(p) "Proceeding" means the process and activity, and any part thereof, instituted by ERA either in response to an application, petition, motion or other filing under this Part, or on its own initiative, by which ERA develops and considers the relevant facts, policy and applicable law concerning the importation or exportaion of natural gas and which may lead to the issuance of an order by the Administrator under Subparts D and E.

(q) "Reasonable prior notice" means seven (7) days notice of the nature and purpose of the communication.

(r) "State commission" means the regulatory body of a state or muncipality having jursidiction to regulate rates and charges for the sale of natural gas to consumers within the state or municipality.

§ 590.103 General requirements for filing documents with ERA.

(a) Any document, including but not limited to an application, request, petition, motion, comment, protest, and any exhibit submited in connection with such documents, shall be considered filed with ERA under this part when it has been received and stamped with the time and date of receipt by the Division of Natural Gas, ERA. Documents transmitted to ERA must be addressed as provided in § 590.104. All documents and exhibits become part of ERA files and will not be returned. Fifteen (15) copies of all filings and submittals shall be provided to ERA.

(b) Upon receipt by ERA, each application or other initial request for action shall be assigned a docket number. Any petition, motion, request, comment, protest or document filed subsequently in a docketed proceeding with ERA shall refer to the assigned docket number. All documents shall be signed either by the person upon whose behalf the document is filed or an authorized representative and shall contain a certified statement that the representative is a duly authorized representative.

(c) A person who files an application or other request for action is under a continuing obligation until final ERA

action in a proceeding to provide any new of newly discovered information which is relevant to that proceeding.

(d) A person who files an application shall state whether, to the best knowledge of that person, the same or a related matter is being considered by any other part of DOE, including the FERC, of any other Federal agency or department and, if so, shall identify the matter and the agency or department.

§ 590.104 Address for filing documents.

All documents filed under this part shall be addressed to: Division of Natural Gas, Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, RG–13, Washington, D.C. 20461.

All hand delivered documents should be filed at the above address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

§ 590.105 Computation of time.

(a) In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run is not included. The period of time begins to run the next day after the day of the act or event. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal Federal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a legal Federal holiday, unless otherwise provided by this Part or the terms of an ERA order. Documents received after regular business hours are deemed filed on the next regular business day.

(b) When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the Administrator or presiding official for good cause.

(c) An order is effective on the date specified in the order and deemed to be issued at the time and date of receipt stamped by the Division of Natural Gas for release to the public, unless otherwise provided.

§ 590.106 Dockets.

ERA shall maintain a docket of each proceeding under this Part, which shall include the record upon which all orders provided for in Subparts D and E shall be based. All dockets shall be available for inspection and copying by the public during regular business hours between 8:00 a.m. and 4:30 p.m. Dockets are located in the: Division of Natural Gas, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461.

§ 590.107 Service.

(a) An applicant and any other party to a proceeding shall serve a copy of all documents filed with ERA upon all parties unless otherwise provided in this part. Each document filed with ERA shall contain a certification that a copy has been served as required by this section and indicate the date of service. ERA shall maintain an official service list which shall be provided upon request.

(b) All documents required to be served under this Part may be served by hand, certified mail, registered mail or regular mail. It shall be the responsibility of the serving party to ensure that service is effected in a timely manner. Service is deemed complete upon mailing.

(c) Service upon a person's duly authorized representative shall constitute service upon that person.

(d) Persons filing protests in a proceeding shall serve copies upon the applicant and all other persons identified as parties to the proceeding. However, if the protestant is unable for good cause to provide service, ERA shall effect service.

(e) All ERA orders, notices, or other documents shall be served on the parties by ERA either by registered mail, certified mail, or regular mail, except as otherwise provided in this part.

§ 590.108 Off-the-record communications.

In any contested proceeding under this part:

(a) No interested person shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any decisional employee.

(b) No decisional employee shall make an off-the-record communication or knowingly cause an off-the-record communication to be made to any interested person.

(c) A decisional employee who receives, makes, or knowingly causes to be made an oral communication prohibited by this section shall prepare a memorandum stating the substance of the communication and any responses made to it.

(d) Within 48 hours of the off-the-record communication, a decisional employee shall deliver all written off-the-record communications and written memoranda prepared in the compliance with paragraph (c) of this section to the Administrator who shall require the Director of the Division of Natural Gas to make the materials available for public inspection by placing the materials in the docket associated with the proceeding.

(e) Requests for an opportunity to rebut, on the record, any facts or contentions in an off-the-record communication may be filed in writing with the Administrator, the Administrator shall grant such requests only after determining that the dictates of fairness require it.

(f) Upon receipt of an off-the-record communication made by a party in violation of this section, the Administrator may, to the extent consistent with the interests of justice and the policy of the NGA and the DOE Act, require the party to show cause why the party's claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the violation.

(g) The prohibitions of this section shall apply only to contested proceedings and begin at the time either a protest or a motion to intervene or notice of intervention in opposition to the application or other requested action is filed with ERA or a party otherwise notifies the Administrator and the other parties that it opposes the application or other requested action, whichever occurs first.

§ 590.109 ERA investigations.

The Administrator or the Administrator's delegate may investigate any facts, conditions, practices, or other matters within the scope of this Part in order to determine whether any person has violated or is about to violate any provision of the NGA or other statutes or any rules, regulations or orders within the Administrator's jurisdiction. In conducting such investigations, the Administrator or the Administrator's delegate may subpoena witnesses to testify, subpoena or otherwise require the submission of documents, and order testimony to be taken by deposition.

Subpart B—Applications for Authorization To Import or Export Natural Gas

§ 590.201 General.

(a) Any person seeking authorization to export natural gas from the United States to a foreign country or to import natural gas into the United States from a foreign country, or to amend previous import or export authorizations, shall file an application with ERA under the provisions of this Part.

(b) Applications shall be filed at least 60 days in advance of the proposed export or import or other requested action, except for good cause.

§ 590.202 Contents of applications.

(a) Each application for authorization to import or export natural gas shall contain the exact legal name of the applicant; the names, titles, and mailing addresses of a maximum of two persons for the official service list; a statement describing the action sought from ERA and the justification for such action, including why the proposed action is not inconsistent with the public interest.

(b) Each application shall discuss the matters listed below. All factual matters shall be supported to the extent practicable by the necessary data or documents. Copies of relevant documents filed or intended to be filed with FERC may be submitted to satisfy the requirements of this section. Topics to be addressed or described shall include:

(1) The scope of the project, including the volumes of natural gas involved, the dates of commencement and completion of the proposed import or export, and the facilities to be utilized or constructed;

(2) The source and security of the natural gas supply to be imported or exported, including contract volumes and a description of the gas reserves supporting the project during the term of the requested authorization;

(3) Identification of all the participants in the transaction, including the parent company if any, and identification of any corporate or other affiliations among the participants;

(4) The terms of the transaction;

(5) The proposed cost to be charged for the natural gas at the border, and a demonstration why the proposed price is reasonable and otherwise not inconsistent with the public interest;

(6) For proposed imports, the need for the natural gas by the applicant or applicant's prospective customers, including a description of the persons who are expected to purchase the natural gas;

(7) The impact of the proposed import or export on United States balance of payments; and

(8) The potential environmental impact of the project.

(c) The application shall also have attached a statement, including a signed opinion of counsel, showing that a proposed import or export of natural gas is within the corporate powers of the applicant and a copy of all relevant contracts and purchase agreements.

(d) the Administrator or the Administrator's delegate may at any time require the applicant and other parties to submit additional information necessary to resolve issues raised by the application.

(e) All information and data filed with or in support of an application under this subpart will be placed in the public record and will not be afforded confidential treatment.

§ 590.203 Deficient applications.

If an application is incomplete or otherwise deemed deficient, the applicant shall be required by the Administrator or the Administrator's delegate to submit additional information or exhibits to remedy the deficiency within a specified time. If the applicant does not remedy the deficiency within the specified time, the application may be dismissed without prejudice to refiling at another time.

§ 590.204 Amendment or withdrawal of applications.

(a) The applicant may amend or supplement the application at any time prior to issuance of the Administrator's final opinion and order resolving the application and shall amend or supplement the application whenever there are changes in material facts or conditions upon which the proposal is based.

(b) The Administrator may for good cause shown by motion of a party or upon the Administrator's own initiative decline to permit, in whole or in part, an amendment or supplement requested by an applicant under paragraph (a) of this section.

(c) After written notice to ERA and service upon the parties of that notice, an applicant may withdraw an application, which withdrawal shall be effective 30 days after notice to ERA if the Administrator does not issue an order to the contrary within that time period.

§ 590.205 Notice of applications.

(a) Upon receipt of an application, ERA shall publish a notice of application in the **Federal Register**. The notice shall summarize the proposal. Except in emergency circumstances, the notice shall provide a time limit of not less than fifteen (15) days for persons to file protests, comments or a motion to intervene or notice of intervention, as applicable. The notice may also request comments on specific issues or matters of fact, law, or policy raised by the application.

(b) The notice of application shall advise the parties of their right to request additional procedures, including the right to file written comments and to request that a conference, oral presentation, or evidentiary hearing be convened. Failure to request additional procedures at this time shall be deemed a waiver should the Administrator decide to grant the application and authorize the import by issuing a final opinion and order in accordance with § 590.314.

(c) Where negotiations between DOE, including ERA, and a foreign government have resulted in a formal policy agreement or statement affecting a particular import or export proceeding, ERA shall include in the notice of application a description of the terms or policy positions of that agreement or statement to the extent they apply to the proceeding, and invite comment.

§ 590.206 Notice of procedures.

In all proceedings where, following a notice of application and the time specified in the notice for the filing of responses thereto, the Administrator determines to have additional procedures, including the filing of written comments or the holding of a conference, oral presentation, or evidentiary hearing, the Administrator shall provide the parties with notice of the procedures to be followed in the proceeding and advise the parties of their right to request additional procedures in accordance with the provisions of this part. This notice of procedures may identify and request comments on specific issues of fact, law, or policy relevant to the proceeding.

§ 590.207 Filing fees.

A non-refundable filing fee of ($50) shall accompany each initial application to import or export natural gas or any amendment to such application.

§ 590.208 Small volume exports.

(a) *Blanket authorization.* Any person may export up to 100,000 cubic feet of natural gas (14.73 pounds per square inch at 60°F) or the liquefied or compressed equivalent thereof, in a single shipment for scientific, experimental, or other non-utility gas use without prior authorization of the Administrator, on the condition that the reporting requirements in paragraph (b) of this section are met.

(b) *Reporting requirement.* Any person exporting natural gas pursuant to paragraph (a) of this section shall file with ERA within fifteen (15) days after the transaction, a written description of the export transaction, including the name of the exporter, the exact volume of the natural gas exported, the date of the export, and the name of the purchaser.

Subpart C—Procedures

§ 590.301 General.

The procedures of this Subpart are applicable to proceedings conducted on all applications filed under this part.

§ 590.302 Motions.

(a) Motions for any procedural or interlocutory ruling shall set forth the ruling or relief requested and state the grounds and the statutory or other authority relied upon. All written motions shall comply wth the requirements of § 590.103. Motions made during conferences, oral presentations or evidentiary hearings may be stated orally upon the record, unless the Adminstrator or the presiding official determines otherwise.

(b) Any party may file an answer to any motion within fifteen (15) days after the motion is filed, unless another period of time is established by the Administrator or the presiding official. Answers shall be in writing and under oath. Answers shall detail each material allegation of the pleading answered and state clearly and concisely the facts and legal authorities relied upon.

(c) Any motion, except for motions seeking intervention or requesting that a conference, oral presentation or evidentiary hearing be held, shall be deemed to have been denied unless the Administrator or presiding official acts within thirty (30) days after the motion is filed.

§ 590.303 Intervention.

(a) A State commission may intervene in a proceeding under this part as a matter of right by filing a notice of intervention.

(b) Any other person who seeks to become a party to a proceeding shall file a motion to intervene, which sets out clearly and concisely the facts upon which the petitioner's claim of interest is based.

(c) A motion to intervene shall state the position taken by the movant and the factual and legal basis for such positions in order to advise the parties and the Administrator as to the specific issues of policy, fact or law to be raised or controverted.

(d) Motions to intervene and notices of intervention may be filed at anytime following the filing of an application, but no later than the date fixed for filing such motions or notices in any ERA notice or order, unless a later date is permitted by the Administrator for good cause. Each motion or notice shall list the names, titles, and mailing addresses of a maximum of two persons for the official service list.

(e) Any party may file an answer to a motion to intervene, but such answer shall be made within fifteen (15) days after the motion is filed, unless a later date is permitted by the Administrator for good cause. Answers shall be in writing and under oath and shall detail each material allegation of the motion answered and state clearly and concisely the facts and legal authorities relied upon. Failure to answer is deemed a waiver of any objection to the intevention. This paragraph does not prevent the Administrator from ruling on a motion to intervene and issuing a final opinion and order in accordance with § 590.314 prior to the expiration of the fifteen (15) days in which a party has to answer a motion to intervene.

(f) If no answer in opposition to a motion to intervene is filed within fifteen (15) days after the motion to intervene is filed, the motion to intervene shall be deemed to be granted, unless the Administrator denies the motion in whole or in part or otherwise limits the intervention prior to that time. Where the motion to intervene is deemed granted, the participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the motion to intervene, and the admission of such intervenor to party status shall not be construed as recognition by ERA that the intervenor might be aggrieved because of any order issued.

(g) In the event that a motion for later intervention is granted, an intervenor shall accept the record of the proceeding as it was developed prior to the movant's intervention.

§ 590.304 Protests.

(a) Any person objecting to an application or other request for action notice by ERA under this Part may file a protest. No particular form is required. The protest shall identify the protestant and the application or action being protested and provide a concise statement of the reason for the protest.

(b) The filing of a protest, without also filing a motion to intervene or a notice of intervention, shall not make the protestant a party to the proceeding.

(c) A protest shall be made part of the record of the proceeding and shall be considered as a statement of position of the protestant and not as establishing the validity of any assertion, in determining what action is appropriate.

(d) Protests shall be served on the parties either by the protestant or by ERA as provided in § 590.107(d).

§ 590.305 Subpoenas.

(a) Subpoenas for the attendance of witnesses at an evidentiary hearing or for the production of documentary evidence may be issued upon the initiative of the Administrator or presiding official, or upon written motion of a party or oral motion of a party during a conference, oral presentation, or evidentiary hearing if the Administrator or presiding official determines that the evidence sought is relevant and material.

(b) Motions for the issuance of a subpoena shall specify the relevance, materiality, and scope of the testimony or documentary evidence sought including, as to documentary evidence, specification to the extent possible of the documents sought and the facts to be proved by them.

(c) If service of a subpoena is made by a United States Marshall or a Deputy United States Marshall, service shall be evidenced by their return. If made by another person, that person shall affirm that service has occurred and file an affidavit to that effect with the original subpoena.

§ 590.306 Depositions.

(a) The Administrator or presiding official may authorize the taking of testimony of any witness by deposition, upon motion filed by a party.

(b) Parties authorized to take a deposition shall provide written notice to the witness and all other parties, unless waived, at least ten (10) days in advance of the deposition.

(c) The requesting motion and notice shall state the name and mailing address of the witness, delineate the subject matters on which the witness is expected to testify, state the reason why the deposition should be taken, indicate the time and place of the deposition, and provide the name and mailing address of the person taking the deposition.

(d) A witness whose testimony is taken by deposition shall be sworn or shall affirm concerning the matter about which he or she has been called to testify before any questions are asked or testimony given.

(e) Unless the Administrator or the presiding official directs otherwise, the moving party shall file the deposition with ERA after it has been subscribed and certified. The deposition will be made a part of the official record.

§ 590.307 Admissions of facts.

(a) At any time prior to the end of an evidentiary hearing, or, if there is no evidentiary hearing, prior to the issuance of a final opinion and order under Supbart D, any party, the Administrator or the presiding official may serve on any party a witten request for admission of the truth of any matters

at issue in the proceeding that relate to statements or opinions of fact or of the application of law to fact.

(b) A matter shall be considered admitted and conclusively established for the purposes of any proceeding in which a request for admission is served unless, within ten (10) days after service of the request, the party to whom the request is directed answers or objects to the request. Any answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the answering party states that, after reasonable inquiry, the answering party has been unable to obtain sufficient information to admit or deny. If an objection is made, the answering party shall state the reasons for the objection.

(c) If the Administrator or presiding official determines that an answer to a request for admission does not comply with the requirements of this paragraph, he or she may order either that the matter is admitted or that an amended answer be served.

(d) A copy of all requests for admission and answers thereto shall be filed with ERA. Copies of any documents referenced in the request shall be served with the request unless they are known to be in the possession of the other parties.

§ 590.308 Opportunity for additional procedures.

At any time prior to the issuance of a final opinion and order, any party may file a motion requesting additional procedures, including the right to file written comments or that a conference, oral presentation or evidentiary hearing be held. The motion shall describe what type of procedure is requested and include the information required by §§ 590.309, 590.310, and 590.311, as appropriate.

§ 590.309 Conferences.

(a) Upon the initiative of the Administrator or presiding official or upon motion by a party, a conference of the parties may be convened to adjust or settle the proceedings, set schedules, delineate issues, stipulate to certain issues of fact or law, set procedures, and consider other relevant matters where is appears that a conference will materially advance the proceeding. The Administrator or presiding official may delineate the issues which are to be considered and may place appropriate limitations on the number of intervenors who may participate, if two or more intervenors have substantially like interests.

(b) Any motion by a party for a conference shall include a specific showing why a conference will materially advance the proceeding.

(c) Conferences shall be stenographically recorded, unless otherwise ordered by the Administrator or presiding official, and the transcript shall be made part of the record of the proceeding and available to the public.

§ 590.310 Oral presentations.

(a) Upon the initiative of the Administrator or presiding official, an oral presentation may be convened for the purpose of hearing oral statements or arguments on delineated issues of fact, law, or policy relevant and material to the proceeding, if the Administrator or presiding official determines that such an oral presentation will materially advance the proceeding and that the issues cannot be adequately discussed in written submissions.

(b) Any party may file a motion requesting an opportunity to make an oral presentation of views, arguments, including arguments of counsel, and data on any aspect of the proceeding. The motion shall identify the substantial question of fact, law or policy at issue and demonstrate that it is substantial. The party may submit material supporting the existence of the substantial issues. The Administrator or presiding official shall grant a party's motion for an oral presentation, if the Administrator or presiding official determines that a substantial question of fact, law, or policy is at issue in the proceeding.

(c) Any motion by a party for an oral presentation should include a specific showing why an oral presentation will materially advance the proceeding and why the issues cannot be adequately discussed in written submissions.

(d) The Administrator or presiding official may require that parties making oral presentations file briefs or other documents prior to the oral presentation. The Administrator or presiding official also may delineate the issues that are to be considered at the oral presentation and place appropriate limitations on the number of intervenors who may participate, if two or more intervenors have substantially like interests.

(e) Oral presentations shall be conducted in an informal manner. The oral presentation may be, but need not be, made by counsel. The Administrator or the presiding official, and other decisional employees, shall preside as a panel and may question those parties making an oral presentation. Cross-examination by the parties and other more formal procedures used in evidentiary hearings will not be available in oral presentations.

(f) Oral presentations shall be stenographically recorded, and the transcript shall be made part of the record of the proceeding and available to the public.

§ 590.311 Evidentiary hearings.

(a) Upon the initiative of the Administrator or presiding official, an evidentiary hearing may be convened for the purpose of taking evidence on relevant and material issues of fact, if the Administrator or presiding official determines that an evidentiary hearing will materially advance the proceeding and that the issues cannot be adequately discussed in written submissions or at an oral presentation.

(b) Any party may file a motion for an evidentiary hearing for the purpose of taking evidence on relevant and material issues of fact genuinely in dispute in the proceeding. The motion shall identify the factual issues in dispute and the evidence that will be presented. The party must demonstrate that the issues are genuinely in dispute, relevant and material to the decision and that an evidentiary hearing is necessary for a full and true disclosure of the facts.

(c) The Administrator or presiding official shall grant a party's motion for an evidentiary hearing, if the Administrator or presiding official determines that there is a relevant and material factual issue genuinely in dispute and that an evidentiary hearing is necessary for a full and true disclosure of the facts.

(d) In evidentiary hearings, the parties shall have the right to be represented by counsel, to request discovery, to present the direct and rebuttal testimony of witnesses, to cross-examine witnesses under oath, and to present documentary evidence.

(e) The Administrator or presiding official upon their own initiative or upon the motion of any party may consolidate any proceedings involving common questions of fact in whole or in part for an evidentiary hearing. The Administrator or presiding officer may also place appropriate limitations on the number of intervenors who may participate if two or more intervenors have substantially like interests.

(f) The Administrator or presiding official may make such rulings, including delineation of the issues and denial of cross-examination of a witness, as are necessary to obtain a full and true disclosure of the facts and to limit

irrelevant, immaterial, or unduly repetitious evidence.

(g) At evidentiary hearings, the Administrator or presiding official and any other decisional employee may present witnesses for testimony or exhibits that directly relate to a particular issue of fact to be considered at the hearing. The Administrator or the presiding official and any other decisional employee also may question witnesses offered by the parties concerning their testimony.

(h) Evidentiary hearings shall be stenographically recorded, and the transcript shall be made part of the record of the proceeding and available to the public.

§ 590.312 Presiding officials.

(a) The Administrator may preside at a conference, oral presentation, or evidentiary hearing or may designate a presiding official to officiate at such proceedings. The presiding official shall have the full authority of the Administrator during such proceedings.

(b) A presiding official at a conference, oral presentation or evidentiary hearing shall have the authority to regulate the conduct, including, but not limited to, determining the issues to be raised during the course of the conference, oral presentation, or evidentiary hearing, administering oaths or affirmations, ruling on objections to the presentation of testimony or exhibits, receiving relevant and material evidence, requiring the advance submission of written testimony and exhibits, ruling on motions, determining the format, directing that briefs be filed with respect to issues raised or to be raised during the course of the conference, oral presentation or evidentiary hearing, questioning witnesses, taking reasonable measures to exclude duplicative material, and placing limitations on the number of witnesses to be called by a party.

§ 590.313 Witnesses.

(a) The Administrator or presiding official may require that the testimony of witnesses in evidentiary hearings be submitted in advance of the hearing in sworn, written form.

(b) Witnesses who testify in an evidentiary hearing shall be sworn or shall affirm before being allowed to testify.

(c) Witnesses subpoenaed pursuant to § 590.305 shall be paid the same fees and mileage as paid for like services in the District Courts of the United States.

(d) Witnesses deposed pursuant to § 590.306 shall be entitled to the same fees as paid for like services in the District Courts of the United States.

§ 590.314 Shortened proceedings.

In any proceeding where, in response to a notice of application, no party files a motion requesting additional procedures, including the right to file written comments, or the holding of a conference, oral presentation, or evidentiary hearing, or where the Administrator determines that such requested additional procedures are not required, the Administrator may issue a final opinion and order after consideration of the record, including the application and all other filings. In any proceeding in which the Administrator intends to deny the application solely on the basis of the application and responses to the notice of application without additional procedures, the Administrator shall advise the parties generally of the issues of concern to the Administrator upon which the denial would be based and provide them with an opportunity to request additional procedures.

§ 590.315 Reopening the record.

(a) After the conclusion of an oral presentation or evidentiary hearing and prior to the issuance of a final opinion and order, the record may be reopened by the Administrator or presiding official at any time in order to take additional evidence or oral argument. Such decision may be in response to a motion to reopen from a party or upon the initiative of the Administrator or presiding official.

(b) Motions to reopen the record shall set forth the grounds and describe the circumstances which warrant such action and shall demonstrate that reopening the record will materially advance the proceeding.

Subpart D—Opinions and Orders

§ 590.401 Orders to show cause.

The Administrator may commence a proceeding under this Part by issuing an order to show cause, which shall identify the matters of interest about which the Administrator is inquiring. A show cause order is not a final opinion and order, but is for the purpose of framing issues for consideration and decision. The respondent named in the order shall respond orally or in writing, or both, as required by the order.

§ 590.402 Conditional decisions.

The Administrator may issue a conditional decision at any time during a proceeding prior to issuance of a final opinion and order. The conditional decision shall include the basis for not issuing a final opinion and order at that time and a preliminary statement of findings and conclusions.

§ 590.403 Emergency relief.

Where consistent with the public interest, the Administrator may waive further procedures and issue an emergency interim order authorizing the import or export of natural gas. After issuance of the interim order, the proceeding shall be continued until the record is complete, at which time, a final opinion and order shall be issued. The Administrator may attach necessary or appropriate terms and conditions to the interim order to ensure that the authorized action will be consistent with the public interest.

§ 590.404 Final opinions and orders.

The Administrator shall issue a final opinion and order after completion and review of the record. The final opinion and order shall include a statement of findings and conclusions, as well as the reasons or basis for them, and the appropriate order, condition, sanction, relief, or denial.

§ 590.405 Transferability.

Authorizations by the Administrator to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Administrator.

§ 590.406 Compliance with orders.

Any person required or authorized to take any action by a final opinion and order of the Administrator under Section 3 of the NGA shall file with ERA, within thirty (30) days after the requirement or authorization becomes effective, a notice, under oath, that such requirement has been complied with or such authorization accepted or otherwise acted upon, unless otherwise specified in the order.

§ 590.407 Reports of changed circumstances.

Any person authorized to import or export natural gas has a continuing obligation to give the Administrator written notification as soon as practicable, of any prospective or actual changes of a substantive nature in the circumstances upon which the authorization was based, including, but not limited to, amendments or other changes in the terms and conditions of any natural gas purchase contract, in volumes accepted or offered, or the import or export price paid. Compliance with this section does not relieve an importer or exporter from responsibility to file the appropriate application to amend a previous import or export authorization under this part whenever such changes are contrary to or otherwise not permitted by the existing authorization.

Subpart E—Applications for Rehearing

§ 590.501 Filing.

(a) An application for rehearing of a final opinion and order or emergency interim order may be filed by any party aggrieved by the issuance of such opinion and order within thirty (30) days after issuance. The application shall be served on all the parties.

(b) The application shall state concisely the alleged errors in the final opinion and order or emergency interim order and must set forth specifically the ground or grounds upon which the application is based. If an order is sought to be vacated, reversed, or modified by reason of matters that have arisen since the issuance of the final opinion and order or emergency interim order, the matters relied upon shall be set forth with specificity in the application. The application shall also comply with the requirements of § 590.103.

§ 590.502 Application is not a stay.

The filing of an application for rehearing does not operate as a stay of the Administrator's decision or order unless specifically ordered by the Administrator.

§ 590.503 Opinion and order on rehearing.

Upon application for rehearing, the Administrator may grant or deny rehearing or may abrogate or modify the final opinion and order or emergency interim order with or without further proceedings.

§ 590.504 Denial by operation of law.

Unless the Administrator acts upon the application for rehearing within thirty (30) days after it is filed, it is deemed to be denied. Such denial shall constitute final agency action for the purpose of judicial review.

§ 590.505 Answers to applications for rehearing.

No answers to applications for rehearing shall be entertained. Prior to the issuance of any final opinion and order on rehearing, however, the Administrator may afford the parties an opportunity to file briefs or answers and may order that a conference, oral presentation, or evidentiary hearing be held, on some or all of the issues presented by an application for rehearing.

[FR Doc. 81-25874 Filed 9-3-81; 8:45 am]
BILLING CODE 6450-01-M

federal register

Friday
September 4, 1981

Part VIII

Department of Agriculture

Food and Nutrition Service

Regulations To Implement Some of the Food Stamp Program Amendments of the 1981 Omnibus Reconciliation Act

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, and 277

[Amdt. No. 202]

Food Stamp Program: Household Composition, Income Standards, Initial Month Benefits, Adjustments, Deductions, and Outreach.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This rule changes the current Food Stamp Program in accordance with the 1981 Omnibus Reconciliation Act. As required by that law, changes are made in the definition of a household, which households are eligible for food stamps, what benefits a household will receive when it first applies and in subsequent months, when USDA will update the income eligibility standards, benefit levels and allowable deduction amounts to account for changes in the cost-of-living, and other parts of the Program. Taken together, these changes will restrict eligibility and reduce the Program's cost. This rule also implements a minor provision of the 1980 Food Stamp Amendments.

DATES: This interim rule is effective on September 4, 1981. State agencies shall begin implementation no later than October 1, 1981 and complete implementation in accordance with the timeframes set forth in these rules. Comments must be received on or before January 4, 1982.

ADDRESS: Comments should be submitted to Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 500 12th Street, SW, Washington, D.C., Room 678.

FOR FURTHER INFORMATION CONTACT: Thomas J. O'Connor, Jr., Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250; (202) 447-9075.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department estimates that the rule will result in a savings of about $1.3 billion in fiscal year 1982. Therefore, it is classified as a "major" rule because the rule will have a significant annual effect on the economy, through significant program cost savings of more than $100 million. However, the rule will not result in major increases in costs or prices, will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade, and will not require significant changes in the way State and local welfare agencies administer the Program. Further, this rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. While the Department has determined that this rule shall be classified as a "major" rule, in accordance with Executive Order 12291, it has also been determined that an emergency situation exists which makes compliance with the requirements of the Order with respect to such rules impracticable. Therefore this rule is being promulgated in accordance with the exemption in Section 8(a)(1) of the Executive Order. The Department has informed OMB of the problems it faces in complying with the Executive Order and shall submit the rule for review at the first opportunity. The Department has taken this action because implementation of these provisions for a full year has been assumed in the spending limitations for the Food Stamp Program being considered by Congress for fiscal year 1982, and it is essential that these provisions be implemented as early in the fiscal year as possible to achieve the savings intended by Congress over the course of the entire fiscal year. Delays in the effective date and implementation would increase the likelihood that the Department may need to enforce Section 18(b) of the Food Stamp Act, which requires the Department to reduce, suspend, or cancel benefits to all eligible households if, in any fiscal year, Program spending will exceed the limitations enacted by Congress. While implementation of these provisions will have an adverse effect on many potential applicants and some current participants, delays in implementation could result in an across-the-board adverse effect on all eligible participants if Section 18(b) must be enforced as a direct result of delayed implementation of the provisions.

The Department of Agriculture has also determined, in accordance with 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective earlier than thirty days after publication, and additionally, in accordance with 5 U.S.C. 553(b)(1)(B), that there is good cause found that notice of proposed rulemaking and public comment procedures prior to the effective date of this rule are impracticable, unnecessary, and contrary to the public interest. Each month that implementation of the provisions is delayed would result in significant loss of Program savings intended to be achieved by the Congress for fiscal year 1982. This would increase the possibility that Program spending will exceed the spending limits Congress has placed on the Program, and may result in issuance of lower benefits or no benefits to *all* eligible participants, as required by Section 18(b) of the Food Stamp Act. It is, therefore, in the public interest to quickly direct benefits as the Congress intended, rather than to unnecessarily issue lower benefits or no benefits to *all* eligible participants. The Department will accept comments on these rules, however, and will review all that are received within 120 days of publication. A final rule will be published after the comment period ends.

Finally, this rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will implement those provisions of the 1981 Omnibus Reconciliation Act aimed at reducing the growth of Federal Food Stamp Program expenditures for fiscal year 1982, by restricting eligibility for the Program and reducing benefits for certain households which remain eligible. State and local welfare agencies are affected to the extent that they administer the program. Other small entities may be affected by the elimination of Federal funds to reimburse State agencies for outreach efforts. Those most affected are potential and current participants in the Program.

Background

As part of an effort to curb the growth in Federal expenditures in fiscal year 1982, Congress enacted numerous changes in the Food Stamp Act as part of the Omnibus Reconciliation Act of 1981 (Pub. L. 97-35, enacted August 13, 1981). In that Act Congress proposed to restrain the growth of the Food Stamp Program through a number of provisions. Several are implemented by this rulemaking and are described in this preamble.

The Reconciliation Act permits the Secretary to set the dates of

implementation of the amendments to the Food Stamp Act, taking into account the need for an orderly implementation (Section 117). The Department has included in this rulemaking those provisions which will save the most money while disrupting the Program's operation least. Other provisions of the Reconciliation Act, those regarding a mandatory monthly reporting and retrospective accounting system (Sections 107 and 108), disqualification for fraud and misrepresentation (Section 112), claims and recovery of overpayments (Section 113), a State agency's share of collected claims (Section 114), and a block grant program in the Commonwealth of Puerto Rico (Section 116), shall be addressed in separate rules at a later date.

Gross Income Limit

Introduction. In the current Food Stamp Program a household is eligible for benefits only if its net income is less than the Federal government's nonfarm income poverty guidelines. Net income is also used in determining a household's benefit level. Net income means the total of earned and unearned income (or gross income) minus the earned income, standard, medical, dependent care, and excess shelter deductions. The new legislation (Section 104) eliminates this standard of net income for eligiblity determinations for most households and uses a new gross income standard instead. Only for households with an elderly or disabled member will the net income standard remain in effect. The situation of these households is discussed later in this section of the preamble.

Under the provisions of the Reconciliation Act, a household cannot participate in the Food Stamp Program if its gross income exceeds 130 percent of the nonfarm income poverty guidelines. A household's gross income is relevant in determining its eligibility. Only when computing an eligible household's benefit level is net income a consideration.

In implementing this provision, this rule does not change the current definitions of gross income and net income in any way; the rule only changes the uses to which these income amounts are put. As before, gross income means a household's total, non-excluded income, before any deductions have been made. As before, net income means gross income minus the Program's allowable deductions.

Gross income is the household's total income after excluded income has been disregarded but before any deductions have been made. Because assistance programs differ in what is excluded and what is deducted, the Department wishes to repeat here the list of excluded income for the Food Stamp Program. This list is derived directly from Section 5(d) of the Food Stamp Act of 1977, as amended.

Non-monetary compensation and vendor payments are excluded, as is irregular income which does not exceed $30 in three months. The Program excludes deferred payment educational loans, grants, scholarships, fellowships, veterans' educational benefits and similar payments, but only to the extent that they are used for tuition or mandatory fees at institutions of higher education or schools for the handicapped. All loans, other than deferred payment, educational loans, are excluded in their entirety. Also excluded are reimbursements which do not exceed a household member's actual expenses and which are not a gain or benefit to the household. If the household receives money to care for a third party beneficiary who is not a household member, or if a student member of the household, who is under 18, earns money, these incomes are excluded. Nonrecurring lump-sum payments are excluded and the cost of producing self-employment income is excluded. Any energy assistance payments made under Federal, State, or local laws are excluded. Finally, income which is excluded by any other Federal law must be disregarded in computing a household's gross income. For a fuller explanation of these exclusions, and in particular, for a list of the types of income which are excluded by statutes other than the Food Stamp Act, please refer to 7 CFR 273.9(c).

The only deductions in the Food Stamp Program are those allowed by Section 5(e) of the Food Stamp Act and explained in 7 CFR 273.9(d). These deductions are: the standard deduction, the earned income deduction, the dependent care deduction, the medical deduction, and the shelter expense deduction.

There are a number of issues which arise under this change in the eligibility standards. The first is how to issue allotments to eligible households which are entitled to receive allotments of $1, $3, or $5. The second issue is how to treat households which are eligible under the gross income test but which are not entitled to receive any benefits because their net incomes are too high. These two issues arise in the following way. Currently, a household's allotment equals the appropriate Thrifty Food Plan amount for the household's size minus 30 percent of its net income. Under the current net income limit for all households, a household would become ineligible before its allotment could fall below $6. When the gross income limit is used, this relationship between net income and eligibility is removed. Therefore, a household's gross income could be low enough to make it eligible, while its net income could be high enough to entitle it to $2, $1, or even no benefits. Under Section 8(a) of the Food Stamp Act of 1977, as amended, eligible households with one or two members are automatically entitled to a minimum monthly allotment of $10. Therefore, these issues arise only with regard to households of three or more, or households whose benefits are prorated in the initial month of their eligibility.

Allotments under $10. The first issue, then, concerns a household which is entitled to an allotment of $1, $3, or $5. These allotments cannot be issued because the smallest books printed are $2 and $7 books. This issue was first discussed in the proposed rulemaking entitled "Amount of Initial Benefits," published in the **Federal Register** on May 22, 1981, at 46 FR 27960. As a result of consideration given to the problem at that time and comments received on that proposed rule, the following options were considered: (1) Establish a minimum allotment of $5, $6, $7, or $10 for all households; (2) Issue loose $1 coupons; (3) Adjust $1, $3, and $5 allotments to $2, $4, and $6 respectively; (4) Issue coupons in books of $1 denomination: or (5) Apply both the gross and net income standards to the same households.

The Department does not have the legal authority to set a minimum allotment for households with three or more members. Section 8(a) of the Food Stamp Act establishes a minimum only for one and two-person households. Also, a minimum allotment would be a costly procedure, particularly if the minimum were $10.

The issuance of loose $1 coupons would result in significant problems of accountability. The production costs of $1 books would be excessive, as would the costs of reprinting forms, reprogramming computers, and shipping and storing new denominations of books.

The Department considered the option of not issuing any benefits to households whose net incomes exceed the current net income standards. In other words, households would be subjected to both the gross *and* net income standards. This option would have avoided the problems of issuing benefits under $10 and would have been a cost-effective procedure to follow. However, the Reconciliation Act clearly states that

each household is subject to either the gross or net income standard, but not to both. It would require a change in the Food Stamp Act itself to apply both standards to the same household.

Since the other options are more costly, the Department has chosen to adjust the benefits of those households which are entitled to $1, $3, or $5, by issuing these households allotments of $2, $4, or $6, respectively. The Department, the State agencies, and the issuance agents can issue benefits in this manner at the lowest administrative cost and with the least disruption to the issuance system.

The second issue concerns the treatment of those households which are eligible, but are entitled to no benefits on an ongoing basis. Under Section 8(a) of the Food Stamp Act of 1977, as amended, eligible households with one or two members must receive an allotment of at least ten dollars. However, households with three or more members, although eligible, may be entitled to no benefits. An eligible household would be entitled to no benefits if 30 percent of its net income were equal to or greater than the Thrifty Food Plan amount for its household size. This could not happen under the net income limit, since a net income that high would make a household ineligible. For a household subject to the gross income limit, this is no longer the case. The household may be eligible if it had a gross income just below 130 percent of the poverty level, but 30 percent of its net income equaled its Thrifty Food Plan. For example, a household with four members could have a gross income of $915 and be eligible for food stamps. If the household claimed only the standard deduction of $85, its net income would be $830. Since 30 percent of $830, or $249, is more than the Thrifty Food Plan for a four-person household ($233), this household would receive no benefits.

The Department is offering State agencies two options for dealing with these households. First, the State agency may deny the household's eligibility on the basis that its net income is too high for it to receive benefits. Second, the State agency may certify the household as eligible, but suspend its participation. The State agency may choose whichever option is most appropriate.

The Department believes the first option will probably be the more efficient option for most State agencies. It will avoid the problem of "dummy cases." These are households which are carried as active, but which do not receive benefits. Such cases are especially prone to fraud and the denial option would make such fraud more difficult to commit. The denial option is also the simpler option to implement and administer. At the same time the Department recognizes that some State agencies might prefer to certify these households but suspend their participation. This option might be preferable because of the agencies' systems or the nature of their caseloads. As an example, a four-person household might claim only the standard deduction of $85 and receive gross monthly income which fluctuates above and below $863 monthly. If the household selected a variable allotment system, it would alternate between receiving some benefits and none at all. Therefore, the Department is offering the second option of certifying the household without benefits.

The Department is offering the suspension option to State agencies which would find useful a middle ground between the status of applicant and the status of recipient. Under this option, the State agency is allowed to specify which changes would result in a household's conversion from suspension to recipient. For example, a State agency might convert only households with changes in income or deductions, but require a new application when household composition changes. Accordingly, the State agency would also design its own reporting system for suspended households by deciding what had to be reported, when, and how. This reporting system could differ from the reporting system now in effect, as required by 7 CFR 273.12.

A household would be entitled to its first issuance within ten days of the date it reports a change that results in its conversion. This first issuance would be the household's full allotment prorated from the date the household reports the change over the remainder of the month. The methods available for proration are specified at 7 CFR 273.10(a)(1) and are discussed in this rulemaking under the heading, "Benefit Levels for Initial Month of Application".

This rule offers two options regarding work registration as it relates to suspended households. Currently, work registration forms are completed at the time of application (usually at the certification interview) and sent to the State Employment Security Agency (SESA) within five days of the date of certification. For suspended households, the State agency may, under this rule, require registration at the time of application or delay it until the household has been determined entitled to benefits. In either case, the State agency would not submit the work registration form to the SESA until entitlement to benefits had been determined. The State agency would then have five days to submit the form. These modifications have been adopted to reduce the amount of paperwork that would be required, perhaps unnecessarily, by adhering to the current work registration procedures. As a consequence of the delay in submitting the work registration form to SESA, a suspended household shall not be required to comply with the job search requirements of 7 CFR 273.7(f) until after the household has been converted to recipient status.

In order to expedite the conversion from suspended status to recipient status, the State agency will not be allowed to require the household to be interviewed a second time. When the household reports a change, the State agency will contact the household only to clarify any inconsistent or questionable information and to inform the household of the verification requirements.

Once a household has been converted, the State agency will have ten days to provide the household with an opportunity to participate. Since the State agency will have the household's case in its active file, the State agency will only be making changes. A limit of ten days, rather than a longer period, was chosen to minimize the hardship a household would suffer between the time it becomes entitled to food stamps and the delivery of those benefits.

These options are available only when a household is entitled to no benefits on an ongoing basis. An eligible household may have its initial month's allotment prorated to zero in accordance with 7 CFR 273.10(a)(1), but be entitled to some benefits in subsequent months. A State agency must certify this household; it does not have the option of denying the household's application.

The elderly and the disabled. Households which contain an elderly or a disabled member are exempt from the new gross income standards. According to the Reconciliation Act, an elderly member is one who is at least sixty years old. A disabled member is one who receives Supplemental Security Income (SSI) benefits or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act. For these households, the current net income standard will remain in effect. They will also remain entitled to the medical and uncapped shelter deductions in addition to the earned income, standard, and dependent care deductions.

Changing from one standard to the other. There will be circumstances

under which a certified household will move from the gross income eligibility standard to the net income eligibility standard. This will happen when a member of the household becomes 60 years old, begins receiving SSI, or begins receiving a disability payment. The question of when to apply the net income standard thus arises. This could be done at recertification, when the household notifies the State agency of the change, or when the change takes place, if the State agency is already aware of it.

Applying the new standard at recertification would reduce the administrative complexity of handling the change. Fewer notices would have to be sent out and fewer cases would have to be reexamined. There would be less inconvenience to the household. However, because application of the net income standard can result in ineligibility for a participating household, some ineligible households would continue to receive benefits until recertification.

Handling the change when a recipient reports it would eliminate much of the delay in applying the net income standard. However, two problems arise. First, households are not now required to report the sixtieth birthday of a household member. Adding that requirement would entail significant changes in forms and instructions to applicants and recipients. Second, it would also require the State agency to go beyond what it would normally verify. For example, if a recipient reported the receipt of a Retirement, Survivors, and Disability Insurance (RSDI) payment, the State agency would have to determine whether the payment was for disability or for one of the other kinds of payments.

The Department has chosen to require State agencies to apply a new eligibility standard only when the agency has to adjust a household's eligibility, benefit level, or certification period. Under this procedure, a State agency will be able to redetermine eligibility efficiently, and only when it is necessary. If a household's eligibility is not redetermined during its certification period, the State agency would apply the other standard as part of the next recertification process.

Other households may become eligible when they become entitled to the net, rather than the gross income standard. Since such a household would not be certified at the time of the change, the household would have to apply for participation in the Food Stamp Program before it could receive benefits.

Computation procedure. The Department is also changing the procedure for computing a household's net income. Under the current procedure, a State agency calculates the household's gross earned income, subtracts the earned income deduction, and then adds the household's gross unearned income. This means that at no point does its total gross income appear on the worksheet. To make the determination of eligibility easier, the new procedure will require first the computation of total gross income and then the deduction of the earned income allowance, and other expenses.

Policy clarifications. There are three issues related to the preceding discussion of the new gross income eligibility limit that merit discussion, although the Department is not issuing new rules with respect to those issues. First, the new gross income eligibility standard also applies to households which receive expedited service because they are destitute. If an applying household is destitute, the State agency shall compute its gross income by counting only that income which the household receives between the first day of the month and the date the household applies. It is this gross income which the State agency shall compare to the gross income eligibility standard to determine eligibility. For an elderly or disabled household which is subject to the net income standard, the State agency shall determine eligibility as under current procedures, using the household's net income. In this way both the State agency and the household can avoid a second application process soon after the first.

Second, it is possible that a household may be ineligible in its month of application, but it is anticipated that the household will be eligible in the subsequent month. Currently, the regulations require that State agencies deny the household's application in the first month but certify the household in the subsequent month (7 CFR 273.10(a)(3)). This requirement will remain in effect for households which are eligible for no benefits, taking precedence over the two options which are otherwise offered to State agencies.

The third issue is the rounding of the monthly gross income eligibility standards. Because eligibility is determined monthly, the annual income poverty guidelines have, in the past, been divided by 12 to arrive at the monthly net income standard. If necessary, this monthly amount was then rounded up to the next whole dollar. Rounding up guaranteed that no household could be made ineligible for food stamps simply because of the rounding of the income eligibility standard. The Department has chosen to round the gross income eligibility standard in the same way. Thus, when 130 percent of the poverty guideline is divided by 12, the quotient will be rounded up to the next whole dollar. Since the Department has chosen this procedure, a discrepancy exists between the gross income eligibility standard chart which appears in this rule and the chart which appears in the House Report on the Food and Agriculture Act of 1981 (97th Congress, 1st Session, Rep. No. 97–106, page 124). The chart in the House Report contains quotients which were rounded down from 49 cents and up from 50 cents. At no point is there a difference of more than one dollar.

Minimum allotment. As stated previously, only households with one or two members are guaranteed a minimum allotment of $10. However, the regulations, as they are currently written, occasionally mention the $10 minimum without restricting it to these small households. The Department is therefore amending the regulations to correct this oversight wherever there is a reference to a minimum allotment.

Outreach

The Omnibus Reconciliation Act of 1981 drastically changed the Food Stamp Act's outreach provisions; it not only eliminated the provisions themselves, it also added a provision to the Act forbidding the use of Federal funds for outreach activities.

The rules implementing these changes make outreach activities a State agency option. However, beginning on October 1, 1981, FNS will no longer fund State agency outreach activities. Therefore, any outreach activities that State agencies undertake after that date will have to be totally funded by State agencies.

In eliminating the food stamp outreach requirements and prohibiting Federal funding of outreach activities, Congress was clearly trying to halt Federal funding for many of those activities currently undertaken by State agencies to inform people about the Program and encourage them to apply. As the Senate Report on S. 1007 pointed out: "* * * with 23 million recipients on the program—one in every 10 Americans—the American people, as a whole, are well-informed about the availability of food stamps and that aggressive Federal requirements for outreach are wholly inappropriate." (S. Rpt. No. 97–129, 97th Cong., 1st Session, p. 52 (1981)). However, Congress did not intend to eliminate all of the activities currently

authorized in the outreach regulations. The same Senate Report went on to say:

"This prohibition on funding should not unduly restrict the State from providing (with 50 percent matching Federal funds) information to potential recipients who are inquiring about participation in the food stamp (program). However, the Committee does not intend for Federal funding to be used to continue soliciting or recruiting recipients to the program." (id.)

With this in mind the Department reexamined current outreach rules to determine what should be kept and what should be eliminated. All but two required activities were eliminated.

One such activity is nutrition education. Section 11(e)(15) of the 1977 Act requires that State agencies display posters and distribute pamphlets that describe nutritious foods, menus, other USDA nutrition assistance programs, and the relationship between health and diet. This provision was not amended by the Omnibus Reconciliation Act. The rules requiring that these posters be displayed and these pamphlets be distributed are included in the outreach rules since it was there that other publication requirements are located. Now, even though the other requirements are being eliminated, the nutrition education requirements will remain.

Another activity that has been retained is the providing of information to participants and applicants of their Program rights and responsibilities. The Department believes that this is an important activity in that it can lead to better case management and fewer errors. Thus, it can prove to be a valuable management tool. The Senate Committee, again in its Report on S. 1007, supports the retention of this requirement when it states that: "* * * the prohibition on Federal funding of outreach should not be construed to inhibit informing food stamp applicants and recipients of their rights and responsibilities." (id.)

While the requirement has been retained, it has been altered so that it no longer prescribes how the information on rights and responsibilities is to be given to applicants and participants. The Department believes that State agencies should be free to choose the most appropriate means for fulfilling this requirement.

One other important point should be made. State agencies will not be prohibited from receiving Federal funds for providing people with answers to inquiries about the Program. Thus, the funding for receptionists who deal with potential applicants, for hotlines on which people may make inquiries, and other such activities will remain the same. However, funding for activities that solicit or recruit recipients for the Program will be ended.

Benefit Levels for Initial Month of Application

Introduction: On May 22, 1981, the Department published rules in the **Federal Register** (46 FR 27960) proposing that the period of application be defined in half-month time periods and that half-month benefits be issued for those households applying after the 15th of the month. The preamble to those proposed rules outlined the three options considered relative to initial month benefits. These were the half-month option proposed, defining the period of application as a seven-day period, thus dividing the month into quarters and issuing benefits retroactive to the first day of each quarter, and finally, defining the period of application as the day of application and prorating benefits based on the number of days left in the month. Since the proposed rulemaking was published, the Reconciliation Act was passed which mandates that initial month benefits be prorated from the day of application. While comments received on the proposed rulemaking discussing which option the commenters preferred are thus no longer relevant, many commenters either directed their comments to daily proration or addressed general areas of concern which are still pertinent. Such comments have been helpful in developing these final rules and are discussed below as an aid in explaining the new rules on proration of initial month's benefits.

Definition of initial month: Five comments were received requesting that initial month be defined to clarify when an application received from a household that has been previously certified would be considered an initial application resulting in prorated benefits. The commenters suggested that the Department simply follow the language in the legislation. This would define initial month as (1) the first month for which an allotment is issued to a household, and (2) the first month for which an allotment is issued to a household following any period of more than thirty days during which such household was not participating in the Food Stamp Program. The Department agrees that a definition is needed and in fact, the word of the legislation necessitates such a definition. The Department has thus defined the initial month as either the first month for which an allotment is issued to a household or the first month for which an allotment is issued to a household following any period of more than a month during which the household was not certified for participation in the program. A month was used rather than 30 days (to describe a lapse between certifications) to avoid confusion in non-30 day months. In addition, "certified for participation" was used in the definition instead of "participation" because the use of "participation" would necessitate a determination of whether a household did actually transact their authorization to participate (ATP) card and this can be a lengthy process.

Determination of eligibility: A few commenters misunderstood the time period for which eligibility should be determined and suggested that the eligibility determination be based on the whole month of application. The proposed rules stated that the eligibility for households submitting an initial application would be based on circumstances for the entire calendar month in which the household filed its application. Consequently, while benefits would be prorated in the initial month, the eligibility determination would be based on household circumstances for the entire month. The final rules retain this provision as proposed on May 22, 1981.

Determination of benefit levels: The Department would like to stress here that within the context of proration of initial month benefits, it is especially important that State agencies follow the rules governing application processing in 7 CFR 273.2(c). As the current rules state, each household has the right to file an application form on the same day it contacts the food stamp office during office hours. Since the amount of an applicant's benefits will now be dependent on the date an application is filed, it is crucial that State agencies ensure that there is no delay in accepting the application.

Six comments were received which discussed the method which should be used to determine allotment levels. Three of these comments were directed to the use of two tables when using half-month issuance. These are no longer relevant since we are prorating initial month benefits on a daily basis. Two commenters assumed daily proration would be legislated and recommended use of a standard 30-day month and the establishment of a chart in which the allotment is multiplied by a benefit multiplier, taking into account the number of days left in the month of application. Since passage of the legislation several State agencies have verbally expressed a preference for prorating benefits over the exact number of days remaining in the month, rather than using a standard 30-day month. These State agencies use this system in

their Aid to Families with Dependent Children Program (AFDC) and it would be simpler for them to use the same system for food stamps also. As a result, the Department has written the final rules to allow State agencies to use either a 30-day standard month or the exact number of days in a month for purposes of proration. State agencies opting to use the standard 30-day month can use either a Food Stamp Allotments Proration Table provided by FNS or a formula to determine the amount of the prorated allotments. The table will show the days of the month (from 1–30) across the top and possible full month food stamp allotments down the left column. The prorated benefit amount will, thus, be easily located. An excerpt of the table is shown below as an illustration.

Monthly allotment	Date of Application																											
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30/31
41	41	40	38	37	36	34	33	31	30	29	27	26	25	23	22	21	19	18	16	15	14	12	11	10	8	7	6	4	4	2
42	42	41	39	38	36	35	34	32	31	29	28	27	25	24	22	21	20	18	17	15	14	13	11	10	8	7	6	4	4	2
43	43	42	40	39	37	36	34	33	32	30	29	27	26	24	23	22	20	19	17	16	14	13	11	10	9	7	6	4	4	2
44	44	43	41	40	38	37	35	34	32	31	29	28	26	25	23	22	21	19	18	16	15	13	12	10	9	7	6	4	4	2
45	45	43	42	41	39	37	36	34	33	32	30	28	27	25	24	23	21	19	18	16	15	14	12	10	9	7	6	6	4	2

The other method of determining the allotment would be to use the following formula, keeping in mind that if a household applies on the 31st of a month the date of application to use in the formula is the 30th:

$$\frac{\text{full month's benefits} \times 31 - \text{date of application}}{30} = \text{allotment}$$

Both of these alternatives are included in the final rules and the table will be issued by FNS.

State agencies which opt to prorate benefits over the exact length of a particular month will use the following formula to determine initial month benefit levels:

$$\frac{\text{full month's benefits} \times (\text{number of days in month} + 1 - \text{date of application})}{\text{number of days in month}} = \text{allotment}$$

Two other issues on which comments were received that effect the determination of benefit amounts were minimum allotments and issuance of $1, $3 and $5 benefits. Several of the commenters pointed out that the $6 minimum allotment proposed for a half-month benefit needed to be clarified since the July 1, 1981 minimum allotment for a household of three is also $6. This was an oversight in the proposed rules. However, since initial month benefits are now going to be prorated daily instead of issued in half-month amounts, the question of a minimum allotment in the initial month no longer arises. A household whose prorated allotment is $.49 or less would receive no allotment for the initial month. Because of rounding, all other households would receive at least a $2 benefit. Even the $10 minimum benefit for one and two person households will be prorated in the initial month.

There were also several comments on the issuance of $1, $3 and $5 benefits and how these would be handled given the current coupon book denominations of $2 and $7. A full discussion of this issue is presented in the section of this preamble titled "Gross Income Eligibility Limits." To summarize that discussion, benefit levels of $1, $3, and $5 will be rounded up to $2, $4, and $6 respectively to allow use of current coupon book denominations.

Initial month benefits and expedited service: Nine comments were received which raised the issue of how certification in the initial month for less than a full month's benefits would affect households eligible for expedited service. It was pointed out that a destitute household could come in, for example, on the 27th of a month, be certified for three days worth of benefits and then have to wait up to 30 days before it received any further benefits, assuming it did not provide verification until 15 days after the first certification and the State agency does not take action on the second certification for 15 days. The commenters suggested that final rulemaking rectify this problem.

The commenters proposed two possible solutions. One commenter pointed out that the House Committee on Agriculture recognized this problem (House Report No. 97–106, 96th Congress 1st Session, page 148) and suggested that the Department provide 30 days of food stamps prospectively from the date of application with benefits for the remainder of the second month to be prorated unless the household was found to be ineligible for the second month. The Department agrees that this situation needs to be addressed but disagrees with this method. In effect this option would result in an accounting period in one month being used for certification in a following month. This would only serve to make the expedited service procedures more complicated and the eligibility worker's task more difficult.

Another commenter suggested that a household eligible for expedited service, which is certified after the 15th of an initial month, be certified for the remainder of the application month and all of the following month. This could result in certification up to 45 days based on a limited amount of information. While the less stringent verification requirements for expedited service households are intended to maximize service delivery to those households, it was never intended that the remaining verification requirements would be waived for more than one month. Issuance of one and a half months benefits based on limited verification invites abuse in the expedited service area. Consequently, the Department does not agree with this suggestion.

The Department has formulated a method of handling these situations which differs somewhat from the two suggestions just described. Those households which are eligible for expedited service and which apply after the 15th of a month, will be certified for benefits from the day of application to the end of the application month and also for the following month. Eligibility for the second month will be based on anticipated circumstances. However, the issuance of the second month's benefits will be delayed until all necessary verification has been provided. Once the applicant provides the verification, the State agency will have 5 working days or until the first of the second month (whichever is later) within which to issue the second month's benefits. For example, if a household applies September 25th and does not provide verification of income, the household will be certified for the end of September and for October but will be

issued benefits only for September. If it provides the income verification on October 2, October benefits would be issued not later than October 8, five working days from receipt of the verification. This method will place the responsibility on the applicant household to provide the State agency with verification as quickly as possible. The State agency will have already certified the household so it should be able to issue the second month's benefit in a short time period. The Department believes that this solution recognizes the need of a destitute household but at the same time does not compromise the verification required for ongoing certification. These final rules contain language to amend 7 CFR 273.10(a) to this effect.

Household Definition

Currently the definition of "household" at 7 CFR 273.1 states, in part, that a household may consist of an individual or group of individuals who, while living with others, customarily purchase food and prepare meals for home consumption separate and apart from others. This current provision results in some individuals claiming separate household status while they are living together because they purchase food and prepare meals separately. For example, an individual over 18 years old, who is living with his parents and has no means of support, can be eligible to participate even though his parents are not eligible by claiming separate household status and indicating he has no gross income. The individual can be certified as a separate household although, in fact, he is being supported by his parent, so long as he purchases food and prepares meals separately from his parents.

A further example is that of unmarried parents living with their children. The parents do not hold themselves out in the community as husband and wife and therefore may apply separately. The primary wage earner can decline to apply for benefits leaving the other parent with the children as a food stamp household with no income of their own, therefore obtaining larger benefits, so long as the parents purchase food and prepare meals separately.

The Reconciliation Act eliminates such practices by amending the Food Stamp Act to specify that ". . . parents and children who live together shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so. . . ." (Section 101). The law does, however, provide an exception to this provision for those cases in which at least one of the parents is 60 years of age or older.

In accordance with this amendment 7 CFR 273.1, is being amended by this final rule to require that nonelderly parents (regardless of their marital status) and children who live together apply for food stamps as one single household.

Boarders

Currently, those individuals for whom lodging and meals are furnished in return for monetary compensation, who are not residents of a commercial boarding house, are eligible to participate in the program as separate and distinct households, while residents of commercial boarding houses are not. This separation of boarders into two classes has resulted in inconsistent treatment of people similarly situated. During consideration of this provision, prior to its inclusion in the Reconciliation Act, the House Agriculture Committee specified, and the Department agrees, that "A noncommercial boarding house does not provide a more legitimate outlet for food stamps than does a commercial boarding house, since a resident may not use food stamps to purchase meals from either. Prohibiting boarders in noncommercial boarding houses from participation would be consistent with the intent to prohibit boarders in commercial boarding houses from participating and would serve to simplify program administration." (See House Rept. No. 97–106, page 120). This change, as the House Report further states, "* * * would in no way operate to deprive such boarders of their regular meals."

The Reconciliation Act eliminated this inconsistent treatment of boarders by barring all boarders from participation in the Food Stamp Program. The regulations are amended by this final rule (at CFR 273.2) accordingly.

The Department intends, as is current procedure with regard to boarders, that State agencies will generally accept a household's statement as to which individuals residing with the household are household members. Should the household identify any individual as a boarder, then the State agency will determine if that individual meets the Program's definition of a "boarder." If the individual meets the definition of a "boarder," the individual will not be considered a member of the household in which he resides, the compensation paid to the household will be considered income to the household, and the individual's income and resources will not be considered available to such household. However, unlike other individuals who are determined to be nonhousehold members, these individuals are prohibited from participating as separate households on their own.

The Department is retaining the current definition of a "boarder." An individual living with others who pays *reasonable* compensation to the others for meals shall be considered a boarder and ineligible to participate. Those paying less than a reasonable amount for meals will be declared nonboarders and will be considered a member of the household, and the individual's income and resources would be attributed to the household in determining eligibility and benefits. The definitions of "boarder" and "reasonable compensation" currently appear in regulations at 7 CFR 273.2(b), but have been relocated in the CFR to reflect the fact that boarders are no longer eligible to participate.

Strikers

Under the current regulations (7 CFR 273.7) households are not denied participation in the Food Stamp Program solely on the grounds that a member of the household is not working because of a strike at his or her place of employment. If such households meet the income guidelines, asset requirements and work registration requirements of the Act, they may be certified to participate in the Food Stamp Program.

The provisions of the Reconciliation Act deny food stamps to households containing a striking member who is not exempt from the work registration requirements, unless the household can show that, immediately prior to the strike, it would have been eligible or was receiving food stamps according to the applicable Food Stamp rules. Households where the member on strike is exempt from work registration requirements, other than those exempt solely on the grounds that they are employed, (for example, because the member is the caretaker of a child under 6 years of age) would not be affected by the striker provisions. However, those strikers not exempt from the work registration requirements must demonstrate that they were eligible for the Program at the time they were fully employed, to retain eligibility. Even in these cases, any increase in benefits due to the loss of income from the strike is prohibited. Income is to be calculated by assuming that an eligible household with a striking member is receiving the same amount of income from the striking member as it received immediately prior to the strike. This household's income will be calculated

by assuming that the household is receiving the equivalent of a full months' income from the striking member. For example, if a household member goes on strike one week into a calendar month, the amount of wages the striking member would have received for that entire month would be attributed to the household. Once calculated the assumed full monthly wages will not deviate during the length of the strike. This will have the effect of freezing household benefits if no other circumstances change. Added to this assumed income will be any strike benefits or income from temporary employment. If other changes occur, e.g., a change in household size, household benefits can still be adjusted. For strikers who remain eligible, the law did not change the requirement that they register for work nor that they would not be referred to work at the struck site.

The Food Stamp Act defines the term "strike" by using the definition in Section 501(2) of the Labor Management Relations Act, 1947. The term "striker" includes anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Generally, individuals that are not working because of a concerted effort with other employees or a direct grievance against their own employer are strikers and are ineligible for food stamps, unless they were eligible prior to such strike. Individuals will be deemed participants in a strike whether or not they personally voted for the strike.

Examples of non-strikers who are eligible for participation in the program include: (1) Employees whose workplace is closed by an employer in order to resist demands of employees (e.g., a lockout), (2) employees unable to work as a result of striking employees (e.g., striking newspaper pressmen preventing newspapers from being printed and, consequently, truckdrivers are not working because there are no papers to deliver), (3) employees not wanting to cross a picket line due to fear of personal injury or death, and (4) employees who are exempt from the work registration requirements during the strike.

The final rule adds a new section to 7 CFR at Part 273 to implement these provisions of the Omnibus Reconciliation Act.

Earned Income Deduction

In the current Food Stamp Program, a household is entitled to a deduction of 20 percent of its earned income. This deduction is intended to do three things: to provide an incentive to work, to recognize that workers have less money to spend on food after their taxes and other work-related expenses are subtracted from earnings, and to provide workers some equity with self-employed persons who can deduct their costs of doing business. This deduction was allowed as an approximation of a household's working costs.

Section 106 of the Reconciliation Act lowers the earned income deduction from 20 percent to 18 percent. This rulemaking changes program regulations at 7 CFR 273.10(e)(1) and 273.11(c)(3) to implement this change. Only the percentage of earnings which is deductible has changed. The definition of earned income, as described in 7 CFR 273.9(b)(1), remains unchanged.

Adjusting Deductions

The standard deduction is an amount taken from each household's gross income to account for many regular household expenses. The maximum excess shelter deduction performs the same function regarding a household's rent or mortgage payments, utilities, and the like. The standard and maximum excess shelter deductions vary among the continental United States and its outlying areas. These deductions are currently adjusted each January 1 according to increases in the cost of living, as measured by the Bureau of Labor Statistics' (BLS) Consumer Price Index for all urban consumers (CPI–U).

The CPI–U contains homeownership costs as one of its components. The costs associated with homeownership have risen rapidly over the past few years. However, the great majority of food stamp recipients do not own their own homes. Therefore, the CPI–U and the related food stamp deductions have risen faster than the living costs of food stamp recipients.

Section 105 of the Reconciliation Act freezes these deductions at their current levels until June 30, 1983. On July 1, 1983 the deductions will be adjusted according to the CPI–U with homeownership costs removed. The 1983 update will be based upon changes in the cost of living between January 1, 1982 and March 31, 1983. The deductions will be adjusted again on October 1, 1984, to account for cost-of-living changes between April 1, 1983 and June 30, 1984. Beginning on October 1, 1985 and every following October 1, the deductions will be adjusted for changes in the cost of living over the twelve months ending the preceding June 30. Accordingly, program regulations at 7 CFR 273.9(d) are changed by this final rule to reflect this rescheduling of adjustments to the deductions.

Certain provisions of regulations about mass changes refer to the now-suspended schedules for adjusting the Thrifty Food Plan (explained below) and the standard and shelter deductions (7 CFR 273.12(e)). This rule revises these provisions to remove all references to annual and semiannual adjustments. These provisions also suggested to State agencies that they adjust utility standards when the Department adjusts the shelter deduction. Because utility standards change yearly and the maximum shelter deduction will not change yearly until 1985, the two adjustments must occur on different schedules. This rule takes this difference into account as well. It does so by suggesting simultaneous changes when the two schedules permit them.

Adjusting the Thrifty Food Plan

As used in the Food Stamp regulations, the Thrifty Food Plan reflects the maximum food stamp benefit payable to a household of particular size. The Thrifty Food Plan amount, reduced by 30 percent of a household's net income, is its monthly allotment.

Before the passage of the Reconciliation Act, the Thrifty Food Plan would have been updated on January 1, 1982 based upon known and projected changes in the food component of the CPI–U between October 1, 1980 and December 31, 1981. On every January 1 thereafter, the CPI–U food component change in the previous calendar year would have been used to update the Thrifty Food Plan amounts.

Section 103 of the Reconciliation Act will delay the January 1, 1982 adjustment until April 1, 1982. At that time, the adjustment will account for changes in the food component of the CPI–U between October 1, 1980 and December 31, 1981. The following adjustment, on July 1, 1983, will account for changes in the CPI–U between January 1, 1982 and March 31, 1983. The Thrifty Food Plan will next be adjusted on October 1, 1984, to account for changes in the CPI–U between April 1, 1983 and June 30, 1984. Beginning on October 1, 1985 there will be an update each October 1, reflecting changes in the CPI–U over the twelve months which end on the preceding June 30. Program regulations at 7 CFR 273.10(e)(4) are amended by this rule to reflect this rescheduling of the Thrifty Food Plan updates.

Deleting Changes in the Dependent Care and Medical Deductions

Currently, a household may deduct its costs for the care of a dependent member of the household if the care is needed so another household member can work. However, the amount that may be deducted, when it is combined with the excess shelter deduction cannot exceed the maximum amount of the excess shelter deduction ($115 monthly as of January 1, 1981). Under the 1980 Amendments to the Food Stamp Act (Pub. L. 96-249), the Program was to separate the dependent care and excess shelter deductions on October 1, 1981. The dependent care deduction's maximum would have been capped at $90 monthly for each household and no longer adjusted annually for changes in the cost-of-living, and the excess shelter deduction would have been $115 monthly and continued to be adjusted annually for cost-of-living changes. However, Section 115 of the Reconciliation Act repealed the change. As a result, the treatment of the dependent care deduction and the excess shelter deduction remains the same; the two deductions together cannot exceed the cap placed on the excess shelter deduction amount for households which do not contain an elderly or disabled member.

Under the current Program, a household is entitled to a medical deduction if it contains a member who is at least 60 years old or who receives Supplemental Security Income (SSI) benefits or disability payments under Title II of the Social Security Act. To be deductible the expenses must exceed $35 each month and be incurred by the elderly or disabled member.

The 1980 Amendments to the Food Stamp Act would have changed this provision on October 1, 1981, in two ways. First, the threshold for the deduction would have been reduced to $25 from $35. Second, a household would have received a deduction if the spouse of an elderly or disabled member incurred the medical expenses. Section 115 of the Reconciliation Act also repeals these changes.

As noted, the changes in the dependent care and medical deduction provisions would not have become effective until October 1, 1981. As of the time of enactment of the Reconciliation Act the changes had not been promulgated by regulations. Therefore, no regulatory change is necessary.

Deductions in Puerto Rico, Guam and the Virgin Islands

In the Food Stamp Amendments of 1979 (Pub. L. 96-58) Congress authorized a medical deduction for households with elderly or disabled members. Congress also required that the dependent care and excess shelter deductions be separate for these households, and that the excess shelter deduction not have a limit for them. In the statute, elderly was defined as being sixty years of age, or over. Disabled was defined as receiving Supplemental Security Income (SSI) benefits under title XVI of the Social Security Act, or receiving disability payments under Title II of that Act.

When Congress defined disabled in this way it inadvertently omitted the blind and disabled in Puerto Rico, Guam, and the Virgin Islands. In these outlying areas, the blind and disabled do not receive SSI, but receive benefits under other Titles of the Social Security Act. Congress corrected this oversight in the 1980 Amendments to the Food Stamp Act (Pub. L. 96-249, Section 106). It required that this provision go into effect on October 1, 1981. This rule amends the definition of disabled as it has appeared in paragraphs 273.9(d) (3) and (5) of the regulations to define disability so as to include all benefits to the blind and disabled made under Titles I, II, X, XIV, and XVI of the Social Security Act.

Those households which are affected will now be able to claim a medical deduction (for expenses above $35 monthly incurred by the elderly or disabled member), a dependent care deduction, and a separate, uncapped shelter deduction. According to the wording of Section 5(e) of the Food Stamp Act as amended, those households affected by this change must also be treated exactly as are recipients of SSI in the rest of the country. Therefore, they are entitled to the three separate deductions, and the excess shelter deduction must have no upper limit.

Implementation

Section 117 of the Reconciliation Act provides that the amendments to the Food Stamp Act contained therein, except as otherwise specifically provided, shall be effective and implemented upon dates prescribed by the Secretary, taking into account the need for orderly implementation. It should be noted that implementation is not an issue with regard to the delays in the updates to the Thrifty Food Plan, standard deduction and dependent care/excess shelter deduction, and the repeal of the scheduled lowering of the medical deduction threshold because specific dates have been provided for those provisions to take effect. With regard to the repeal of the planned separation of the dependent care and excess shelter deductions there is no need to establish implementation dates because the new legislation simply repeals provisions which were not yet effective. Implementation becomes an issue only with regard to the proration of initial month benefits, the elimination of FNS funding of outreach, the elimination of strikers, the elimination of boarders, the change in household definition, the imposition of the 130 percent gross income limit, and the reduction of the earned income deduction. It also becomes an issue with regard to the medical deduction for elderly and disabled people in Puerto Rico, Guam and the Virgin Islands.

With the intent of Congress to restrain the growth of the Program and to achieve Program cost savings, and the Department's attempt to avoid reduction or termination of benefits to eligible households near the end of the fiscal year, it is important that restrictions on program growth and costs be achieved as early in the fiscal year as possible. Therefore, the provisions contained in this final rule need to be implemented on or before October 1, 1981 for all new applicants and recertifications. Conversion of the current caseload to the gross income test and earned income deduction shall be completed within 90 days from the date of implementation. Conversion to the remaining eligibility provisions (including conversion to the new medical deduction for elderly and disabled households in Puerto Rico, Guam, and the Virgin Islands) should be completed at or before recertification.

The prohibition against Federal funding for State agency outreach efforts is effective October 1, 1981. Therefore, FNS will not reimburse State agencies for any outreach costs incurred after September 30, 1981.

The Department realizes, however, that some State agencies may have compelling reasons, beyond their control, which would make this implementation schedule difficult to meet. Therefore, FNS will consider requests for waivers of the October 1, 1981 deadline or the 90 day conversion period, on a State-by-State basis, provided the waiver request is submitted in writing to FNS and contains sufficient justification to enable FNS to determine if "good cause" exists for granting a longer implementation timeframe. Once an implementation timeframe has been established for a State agency the Department expects that it will be complied with. Because of the funding problems facing the Program the Department will move swiftly against State agencies that do not meet their timeframes. In such cases the

injunctive relief and suspension/disallowance provisions of Section 276 of the Program rules may be used to compel timely implementation.

One reason for implementation delays in some States is the requirement that the procedures developed by State agencies to implement Federal regulations be submitted for public comment in compliance with State Administrative Procedures Acts (APA's). In most situations this practice does not seriously interfere with Program operations. However, in the situation presented by these rules, where it is imperative that implementation take place as soon as possible in order to avoid possible benefit reductions, delays caused by State APA's could very well work to the detriment of Program participants. Therefore, the Department expects that State agencies will exercise the exception provisions included in their APA's to hasten implementation of the rules.

QC during implementation. During implementation of these rules, State agencies shall continue to operate the quality control system as required in Part 275. State agencies will review cases selected in the quality control sample based upon the certification policy that should be applied as of the review date. If a household is certified for food stamp benefits after the State agency is supposed to have implemented these new provisions and is subsequently selected for review by quality control, the new provisions of this regulation will be applied in determining the household's eligibility and allotment level. If a household is certified prior to the required implementation of these new provisions and is selected for review, and it has not been required to have been converted to the provisions of this rulemaking as of the review date, the household's eligibility and benefit level will be reviewed based upon the policy that the State agency should have applied according to the implementation schedule of this regulation. No cases, except those of people who were initially certified or recertified during the conversion period, shall be determined to be in error as a result of not being converted to the provisions of this rule until the required conversion period for all cases is over.

While the October 1981 through March 1982 reporting period will continue to serve as the base period for fiscal year 1983, the Department recognizes the effort that will be required of State agencies to implement this rule and the modifications to the Aid to Families with Dependent Children Program. In light of this, the Department encourages State agencies to note the "good cause" exemption for any State agency with a payment error rate for the October 1981 through March 1982 period that would place them in a position of liability for that period. In all but the most extreme error rate situations, the Department will be receptive to eliminating State agencies' liability for excessive error rates during this period if the State agency demonstrates substantial adverse impact upon management of the Food Stamp Program due to changes in Federal programs.

Other than the operational adjustments required by the provisions of this rule, all other aspects of the quality control system should function normally during the period of implementation.

The reporting and recordkeeping requirements contained in this regulation are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

For the reasons set forth in the preamble, Parts 271, 272, 273, 274 and 277 of Chapter II, Title 7 of the Code of Federal Regulations are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.7, paragraph (b) is amended by adding the words "one- and two-person" between the words "all" and "households" in the sixth sentence; paragraphs (d)(1)(ii) and (d)(3) are revised; and the words "for households with one or two members only" are inserted in paragraph (d)(2)(i), following the words "$10 minimum benefit level" appearing in the second sentence.

The revisions read as follows:

§ 271.7 Allotment reduction procedures.

* * * * *

(d) *Implementation of allotment reductions.* (1) *Reductions.* * * *

(ii) Upon receiving notification that a reduction is to be made in an upcoming month's allotments, State agencies shall act immediately to implement the reduction. Such action would differ from State to State depending on the nature of the issuance system in use. Where there are computerized issuance systems, the program used for calculating allotments shall be altered to reflect the appropriate percentage reduction in the Thrifty Food Plan for each household size and the computer program shall be adjusted to allow for a minimum benefit of $10 for one- and two-person households. The computer program shall also be adjusted to provide for the rounding of benefit levels of $1, $3 and $5 to $2, $4 and $6, respectively. FNS will provide State agencies with revised issuance tables reflecting the percentage reductions to be made in the Thrifty Food Plan amounts and reduced Thrifty Food Plan levels. In States where manual issuance is used, State agencies shall reproduce the issuance tables provided by FNS and distribute them to issuance personnel. State agencies shall ensure that the revised issuance tables are distributed to issuance agents and personnel in time to allow benefit reductions during the month ordered by FNS. In an HIR card system State agencies have the option of enacting the reduction in benefits either by changing all HIR cards before issuance activity for the affected month begins or by adjusting allotments at the point of issuance as each household appears at the issuance office.

* * * * *

(3) *Affected allotments.* Whenever a reduction of allotments is ordered for a particular month, reduced benefits shall be calculated for all households for the designated month. However, any household with one or two members whose reduced benefits would be less than $10 shall receive a minimum benefit of $10 except as provided in § 273.10(e)(2). Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled even though they are issued during an affected month.

* * * * *

PART 272—REQUIREMENTS OF PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (35) is added to paragraph (g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(35) State agencies shall implement the provisions of Amendment No. 202 as follows:

(i) The rules shall be implemented no later than October 1, 1981, including the provisions for a medical deduction, separate dependent care deduction, and uncapped shelter expense deduction for the elderly and disabled in Puerto Rico, Guam, and the Virgin Islands. All household who apply October 1 or later and those households who are recertified October 1, 1981 or later shall

be processed in accordance with these provisions. The proration of initial month benefits shall begin no later than October 1, 1981.

(ii) Conversion of the current caseload to the new gross income test and earned income deduction amount shall be completed no later than 90 days from October 1, 1981, or 90 days from the date of implementation approved through waiver requests in accordance with paragraph (g)(35)(vi) of this section.

(iii) Conversion of the current caseload to the new household definition; ineligibility of strikers and boarders; and, in Puerto Rico, Guam, and the Virgin Islands, a medical deduction, separate dependent care deduction, and uncapped excess shelter expense deduction shall be completed at or before recertification. In no event shall the new medical, dependent care, and excess shelter provisions for Guam, Puerto Rico and the Virgin Islands be implemented prior to October 1, 1981.

(iv) Notification to affected households of these changes shall be done, at a minimum, in the same manner required for mass changes in public assistance grants prescribed in § 273.12(e)(2)(ii).

(v) Beginning October 1, 1981, outreach activities engaged in by State agencies shall be ineligible for Federal matching funds.

(vi) FNS will consider requests for waivers to these timeframes, except for the timeframe in paragraph (g)(35)(v) of this section, on a State-by-State basis, if good cause can be established and justified, in writing, for the need for a longer timeframe.

§ 272.2 [Amended]

3. In § 272.2:

a. Paragraph (a)(2) is amended by removing the words "Outreach Plan";

b. Paragraph (c)(1)(i) is amended by removing the word "outreach";

c. Paragraph (d)(1)(i) is removed and paragraphs (d)(1)(ii) and (d)(1)(iii) are redesignated as paragraphs (d)(1) (i) and (ii) respectively;

d. Paragraph (e)(4) is removed and paragraphs (e)(5) through (e)(7) are redesignated as paragraphs (e)(4) through (e)(6), respectively.

§ 272.3 [Amended]

4. In § 272.3, paragraph (d)(1)(ii) is amended by removing the third sentence.

§ 272.4 [Amended]

5. In § 272.4, the second sentence of paragraph (b)(1) is removed; paragraph (c)(1) is amended by replacing the word "outreach" with the words "Program information"; paragraph (c)(2) is amended by replacing the words "outreach materials" with the words "materials used in Program informational activities".

6. Section 272.6, is revised in its entirety to read as follows:

§ 272.6 Program informational activities.

(a) *Definition.* "Program informational activities" are those activities that convey information about the Program, including household rights and responsibilities, to applicant and recipient households through means such as publications, telephone hotlines, and face-to-face contacts.

(b) *Minimum requirements.* State agencies shall comply with the following minimum information requirements.

(1) Nutrition information. (i) FNS will supply State agencies with posters and pamphlets containing information regarding foods with substantial amounts of the recommended daily allowances of protein, minerals, and vitamins; menus making use of these foods; and the relationship between health and diet;

(ii) Printed materials such as posters, fliers, and pamphlets, that explain the Special Supplemental Food Program for Woman, Infants and Children (WIC) and, where available, the Commodity Supplemental Food Program (CSF) shall be supplied by agencies administering the WIC and CSF programs (where available);

(iii) State agencies shall display the posters and make the pamphlets available at all food stamp and public assistance offices.

(2) Rights and responsibilities. State agencies shall inform participant and applicant households of their Program rights and responsibilities. This information may be provided through whatever means the State agencies deem appropriate.

(3) All Program informational material shall be available in languages other than English as required in § 272.4(c) and shall include a statement that the Program is available to all without regard to race, color, sex, age, handicap, religious creed, national origin or political belief.

7. In § 272.8, paragraph (f) is removed and paragraphs (g) through (p) are redesignated as paragraphs (f) through (o), respectively. The newly designated paragraph (h) is revised to read as follows:

§ 272.8 Procedures for Program Administration in Alaska.

* * * * *

(h) *Determining household eligibility and benefit level.* If a household in a rural area that is serviced by a fee agent first submits its application to the fee agent, the household shall, if determined eligible, receive benefits retroactive to the date the application is received by the fee agent. If a household in a rural area that is serviced by a fee agent submits its signed application directly to a State agency office, the household shall, if determined eligible, receive benefits retroactive to the date the application is received by the State agency.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

8. In § 273.1, paragraph (a) is revised; paragraph (b)(2) is removed and paragraphs (3) through (8) are redesignated as paragraphs (2) through (7), respectively; the title and language of paragraph (c) are revised; and a new paragraph (g) is added. The revisions and additions read as follows:

§ 273.1 Household concept.

(a) *Household definition.* (1) A household may be composed of any of the following individuals or groups of individuals, provided that such individuals or groups are not residents of an institution, except as otherwise specified in § 273.1(e), or residents of a commercial boarding house:

(i) An individual living alone;

(ii) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others;

(iii) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(2) In no event shall separate household status be granted to:

(i) Children under 18 years of age under the parental control of a member of the household;

(ii) Either parents living with their children or children living with their parents unless at least one parent is 60 years of age or older;

(iii) A spouse of a member of the household (as defined in § 271.2); or

(iv) A boarder (as defined in § 273.1(c)).

* * * * *

(c) *Boarders.* Boarders are ineligible to participate in the program. A boarder is defined as an individual residing with the household and paying reasonable compensation to the household for lodging and meals. The household with which the boarder resides (including the household of the proprietor of a boarding house) may participate in the Program, if the household meets all the

eligibility requirements for Program participation. If an applicant household identifies any individual in the household as a boarder, the following provisions apply:

(1) Boarder status shall not be extended to children under 18 years of age under the parental control of a member of the household; to either parents living with their children or children living with their parents, unless at least one parent is 60 years of age or older; or to a spouse, as defined in § 271.2.

(2) Boarder status shall also not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household, but paying compensation of less than a reasonable amount, will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. The reasonable monthly payment for meals shall be paid in cash. In no event shall food stamps be paid for meals and credited toward monthly payments. A reasonable monthly payment shall be either of the following:

(i) Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household; or

(ii) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the Thrifty Food Plan for the appropriate size of the boarder household.

(3) Boarders shall not be considered members of participant or applicant households, nor shall the income and resources of boarders be considered available to such households. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are set forth in § 273.11(b). The procedures for handling income from boarders by a household that owns and operates a commercial boarding house are set forth in § 273.11(a). For Program purposes, a commercial boarding house is defined as an establishment licensed as a commercial enterprise which offers meals and lodging for compensation. In project areas without licensing requirements, a boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.

* * * * *

(g) *Strikers.* (1) For food stamp purposes, a striker shall be anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee affected by a lockout, however, shall not be deemed to be a striker. Further, an individual exempt from work registration in accordance with § 273.7(b), other than those exempt solely on the grounds that they are employed, who may go on strike shall not be deemed to be a striker.

(2) Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible for benefits prior to the strike. If a household was eligible for food stamps immediately prior to such strike, the household shall retain that eligibility. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.

(3) If the household was eligible or participating prior to the strike action, benefits shall be calculated by using the household's income as it stood immediately prior to the strike and adding any income anticipated by the household such as income from the receipt of strike benefits or temporary employment during the strike. The household's regular monthly earned income attributable to the job on which the strike occurred would be deemed to remain the same during the strike as if the household member were still working.

(4) Strikers shall be subject to the work registration requirement under § 273.7.

9. In § 273.2 paragraph (i)(4)(iii) is revised to read as follows:

§ 273.2 Application processing.

* * * * *

(i) *Expedited service.* * * *

(4) *Special procedures for expediting service.* * * *

(iii) Households that are certified on an expedited basis and have provided all necessary verification required in paragraph (f) of this section prior to certification shall be assigned a normal certification period. If verification was postponed, the State agency may certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, at the State agency's option, may assign a normal certification period to those households whose circumstances would otherwise warrant a longer certification period.

(A) When certified only for the month of application, the household must reapply and complete the verification requirements which were postponed.

(B) When a certification period of longer than one month is assigned, the State agency shall notify the household in writing that no further benefits will be issued until the postponed verification is completed. The notice shall also advise the household that if verification results in changes in the household's eligibility or level of benefits, the State agency shall act on those changes without advance notice of adverse action. When households which applied for benefits after the 15th of the month provide the postponed verification, the State agency shall issue the second month's benefits within five working days from receipt of the verification or the first of the second month, whichever is later. When the postponed verification is not completed within 30 days of the date of application, the State agency shall terminate the household's participation and shall issue no further benefits.

* * * * *

10. In § 273.7, paragraph (j) is revised to read as follows:

§ 273.7 Work registration requirements.

* * * * *

(j) *Participation of strikers.* Strikers shall be subject to the work registration requirement, unless exempted under paragraph (b) of this section.

* * * * *

11. In § 273.9, paragraphs (a), (d)(2), (d)(7), and (d)(8) are revised; paragraphs (d)(3) and (d)(5) are amended by, first, removing the words "title II" and adding the words "titles I, II, X, XIV, and XVI" in their place and, second, by adding the words "and blindness" directly after the word "disability"; appendices A, B and C are redesignated as B, C, and D and a new appendix A is added. The addition and revisions read as follows:

§ 273.9 Income and deductions.

(a) Income eligibility standards. Participation in the program shall be limited to those households whose incomes are determined to be a

substantial limiting factor in permitting them to obtain a more nutritious diet.

(1) Except as provided in paragraph (a)(2) of this section, eligibility shall be determined on the basis of gross income. The gross income eligibility standards for the Food Stamp Program shall be as follows:

(i) The income eligibility standards for the contiguous 48 States and the District of Columbia, Guam, Puerto Rico and the Virgin Islands shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia.

(ii) The income eligibility standard for Alaska shall be 130 percent of the OMB nonfarm income poverty guideline prescribed for Alaska.

(iii) The income eligibility standard for Hawaii shall be 130 percent of the OMB nonfarm income poverty guideline prescribed for Hawaii.

(2) Households which contain a member who is sixty years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, shall be determined eligible based on net income. The net income eligibility standards for the Food Stamp Program shall be as follows:

(i) The income eligibility standards for the contiguous 48 States and the District of Columbia, Guam, Puerto Rico, and the Virgin Islands shall be the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia.

(ii) The income eligibility standard for Alaska shall be the OMB nonfarm income poverty guideline prescribed for Alaska.

(iii) The income eligibility standard for Hawaii shall be the OMB nonfarm income poverty guideline prescribed for Hawaii.

(3) The income eligibility limits, as described in this paragraph, are revised each July 1, to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.

(i) 130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the OMB guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.

(ii) The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the OMB guidelines is divided by 12, and the results rounded upward if necessary.

(4) The income eligibility standards for the 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam; for Alaska; and for Hawaii are published as appendices to this section.

* * * * *

(d) *Income deductions.* * * *

(2) *Earned income deduction.* Eighteen percent of gross earned income as defined in paragraph (b)(1) of this section. Earnings excluded in paragraph (c) of this section shall not be included in gross earned income for purposes of computing the earned income deduction.

* * * * *

(7) *Adjustment of standard deduction.* (i) Effective July 1, 1983, the standard deductions shall be adjusted to reflect changes in the Consumer Price Index for all urban consumers (CPI–U) for items other than food and the homeownership component of shelter costs for the fifteen months ending March 31, 1983.

(ii) Effective October 1, 1984, the standard deductions shall be adjusted to reflect changes in the CPI–U for items other than food and the homeownership component of shelter costs for the fifteen months ending June 30, 1984.

(iii) Effective October 1, 1985, and each October 1 thereafter, the standard deductions shall be adjusted to reflect changes in the CPI–U for items other than food and the homeownership component of shelter costs for the twelve months ending the previous June 30.

(iv) These adjustments shall be based on the previous unrounded numbers, and the result rounded to the nearest $5 increment.

(8) *Adjustment of shelter deduction.* (i) Effective July 1, 1983, the maximum limit for excess shelter expense deductions shall be adjusted to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of the CPI–U for the fifteen months ending March 31, 1983.

(ii) Effective October 1, 1984, the maximum limit for excess shelter expense deductions shall be adjusted to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of the CPI–U for the fifteen months ending June 30, 1984.

(iii) Effective October 1, 1985, and each October 1 thereafter, the maximum limit for excess shelter expense deductions shall be adjusted to reflect changes in the shelter (exclusive of homeownership costs), fuel, and utilities components of the CPI–U for the twelve months ending the preceding June 30.

(iv) These adjustments shall be based on the previous unrounded numbers, and the result rounded to the nearest $5 increment.

* * * * *

Appendix A.—*Gross Monthly Income Eligibility Standards*

Household size	48 States, District of Columbia, Guam, Puerto Rico, and Virgin Islands	Alaska	Hawaii
1	467	587	540
2	617	773	711
3	766	959	882
4	916	1,146	1,053
5	1,065	1,332	1,225
6	1,215	1,518	1,396
7	1,364	1,705	1,567
8	1,514	1,891	1,738
Each additional person	+150	+187	+172

* * * * *

12. In § 273.10:

(a) Paragraphs (a)(1) and (a)(2) are revised and paragraphs (a)(3) and (a)(4) are amended by adding subtitles to the paragraphs;

(b) Paragraphs (e)(1)(i), (e)(1)(i)(A) and (e)(1)(i)(B) are revised; paragraph (e)(1)(i)(C) is removed; paragraphs (e)(1)(i)(D) through (H) are redesignated as (e)(1)(i)(C) through (G), respectively; (e)(2)(i) and (e)(2)(ii) are revised; paragraph (e)(2)(iii) is redesignated as (e)(2)(vi) and newly designated paragraph (e)(2)(vi)(B) is revised; new paragraphs (e)(2)(iii), (e)(2)(iv) and (e)(2)(v) are added; and paragraph (e)(4)(ii) is revised;

(c) Paragraph (f)(3)(ii) is removed and paragraphs (f)(3)(iii) and (f)(3)(iv) are redesignated as paragraphs (f)(3)(ii) and (f)(3)(iii), respectively;

(d) And the words "for households with one or two members only" shall be inserted in the following places:

(1) Newly designated 7 CFR 273.10(e)(2)(vi)(C), following the words "the provision for a minimum benefit" and the words "whether minimum benefits"; and

(2) Newly designated 7 CFR 273.10(e)(2)(vi)(D), following the words "$10 minimum benefit".

The revisions and amendments read as follows:

§ 273.10 Determining household eligibility and benefit levels.

(a) *Month of application*—(1) *Determination of eligibility and benefit levels.* (i) A household's eligibility shall be determined for the month of application by considering the household's circumstances for the entire month of application. Most households will have the eligibility determination based on circumstances for the entire calendar month in which the household filed its application. However, State agencies may, with the prior approval of FNS, use a fiscal month if the State agency determines that it is more efficient and satisfies FNS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A State agency may elect to use either a standard fiscal month for all households, such as from the 15th of one calendar month to the 15th of the next calendar month, or a fiscal month that will vary for each household depending on the date an individual files an application for the Program.

(ii) A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. A household shall receive benefits prorated from the day of application to the end of the month. As used in this subsection, the term initial month means either the first month for which an allotment is issued to a household or the first month for which an allotment is issued to a household following any period of more than a month during which the household was not certified for participation in the Food Stamp Program. The State agency shall prorate a household's benefits according to one of the two following options:

(A) The State agency shall use a standard 30-day calendar or fiscal month. A household applying on the 31st of a month will be treated as though it applied on the 30th of the month.

(B) The State agency shall prorate benefits over the exact length of a particular calendar or fiscal month.

(iii) To determine the amount of the prorated allotment, the State agency shall use either the appropriate Food Stamp Allotment Proration Table provided by FNS or whichever of the following formulae is appropriate:

(A) For State agencies which use a standard 30-day calendar or fiscal month the formula is as follows, keeping in mind that the date of application for someone applying on the 31st of a month is the 30th:

$$\text{full month's benefits} \times \frac{(31 - \text{date of application})}{30} = \text{allotment}$$

(B) For State agencies which use the exact number of days in a month, the formula is:

$$\text{full month's benefits} \times \frac{(\text{number of days in month} + 1 - \text{date of application})}{\text{number of days in month}} = \text{allotment}$$

(C) After using the appropriate formula to determine the allotment, the State agency shall round the product down if it ends in 1 through 49 cents and up if it ends in 50 through 99 cents. If the computation results in an allotment of $1, $3, or $5, the allotment shall be rounded up to $2, $4, or $6, respectively.

(iv) Those households which are entitled to expedited service as defined in § 273.2(i)(1), and which apply for benefits after the 15th of the month, shall be certified for benefits prorated from the day of application to the end of the application month and also for the following month. However, the benefits for the month following the month of application shall not be issued until all necessary verification not already provided has been provided to the State agency. The State agency shall issue the second month's benefit not later than the 5th working day from the date the verification was provided by the household or the first of the second month, whichever is later.

(2) *Application for recertification.* Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is received later than one month from the date the last certification period expired, then that application shall be considered an initial application and benefits for that month prorated in accordance with paragraph (a)(1)(ii) of this section.

(3) *Anticipated changes.* * * *

(4) *Changes in allotment levels.* * * *

* * * * *

(e) *Calculating net income and benefit levels.* * * *

(1) *Net monthly income.* * * *

(i) To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income.

(B) Multiply the total gross monthly earned income by 18 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 82 percent and add that to the total monthly unearned income, minus income exclusions.

* * * * *

(2) *Eligibility and benfits.* (i)(A) Except for households considered destitute in accordance with paragraph (e)(3) of this section, households containing a member who is sixty years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act shall have their net income, as calculated in paragraph (e)(1) of this section, compared to the monthly income eligibility standards defined in § 273.9(a)(2) for the appropriate household size to determine eligibility for the month.

(B) For all other households, the State agency shall compare a household's gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, to the monthly income eligibility standards defined in § 273.9(a)(1) for the appropriate household size to determine eligibility for the month.

(C) For households considered destitute in accordance with paragraph (e)(3) of this section, the State agency shall determine a household's eligibility by computing its gross and net income according to paragraph (e)(3) of this section, and comparing, as appropriate, either the gross or net income to the corresponding income eligibility standard in accordance with § 273.9(a)(1) or (2).

(ii)(A) Except as provided in paragraphs (a)(1), (e)(2)(iii), and (e)(2)(vi) of this section, the household's

monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the State agency shall round the product down if it ends in 1 through 49 cents and round the product up if it ends in 50 through 99 cents prior to subtracting that amount from the Thrifty Food Plan. This rounding method shall be used in all determinations of allotments.

(B) All eligible one- and two-person households shall receive a minimum monthly allotment of $10. In the initial month of application, these households shall receive a pro rata share of the $10, depending on the day on which they applied, in accordance with paragraph (a)(1) of this section.

(C) All eligible households whose benefits are pro rated to $1, $3 or $5 in accordance with paragraph (a)(1) of this section and eligible households with three or more members which are entitled to $1, $3, and $5 allotments shall receive allotments, of $2, $4, and $6, respectively, to correspond with current coupon book denominations.

(iii) For an eligible household with three or more members which is entitled to no benefits in months other than the initial month, the State agency shall take either of the following actions:

(A) The State agency shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued; or

(B) The State agency shall certify the household but suspend its participation, subject to the following conditions:

(1) The State agency shall inform the suspended household, in writing, of its suspended status, and of its rights and responsibilities while it is in that status.

(2) The State agency shall set the household's change reporting requirements and the manner in which those changes will be reported and processed.

(3) The State agency shall specify which changes shall entitle the household to have its status converted from suspension to issuance, and which changes shall require the household to reapply for participation.

(4) The household shall retain the right to submit a new application while it is suspended.

(5) The State agency shall convert a household from suspension to issuance status, without requiring an additional certification interview, and issue its initial allotment, within ten days of the date the household reports the change.

(6) The State agency shall prorate the household's benefits, in the first month after the suspension period, from the date the household reports a change, in accordance with § 273.10(a)(1).

(7) The State agency may delay the work registration of the household's members until the household is determined to be entitled to benefits.

(8) Whether a household member registers for work at the time of application or when the household is determined to be entitled to benefits, the State agency shall submit the member's work registration form to the State Employment Security Agency (SESA) within five days after the household is determined to be entitled to benefits.

(9) The household shall not be subject to the job search requirements of § 273.7(f) until it has been determined to be entitled to benefits.

(iv) For those eligible households which are entitled to no benefits in their initial month of application, in accordance with paragraph (a)(1) of this section, but are entitled to benefits in subsequent months, the State agency shall certify the households beginning with the month of application.

(v) When a household's circumstances change and it becomes entitled to a different income eligibility standard, the State agency shall apply the different standard at the next recertification or whenever the State agency changes the household's eligibility, benefit level or certification period, whichever occurs first.

(vi) * * *

(B) Except as provided in paragraph (e)(2)(vi)(C) of this section, if the amount of benefits obtained by the calculation in paragraph (e)(2)(ii)(A) of this section is less than $10 for one- and two-person households only, the household shall be provided a minimum benefit of $10.

* * * * *

(4) *Thrifty Food Plan.* * * *

(ii) *Adjustment.*

(A) Effective April 1, 1982, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the Consumer Price Index for all Urban Consumers (CPI–U) for the cost of food, for the fifteen months ending on December 31, 1981.

(B) Effective July 1, 1983, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar amount to reflect changes in the CPI–U for the cost of food, for the fifteen months ending on March 31, 1983.

(C) Effective October 1, 1984, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI–U for the cost of food, for the fifteen months ending June 30, 1984.

(D) Effective October 1, 1985, and each October 1 thereafter, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI–U for the cost of food, for the twelve months ending on the preceding June 30.

* * * * *

§ 273.11 [Amended]

13. In § 273.11, paragraphs (a)(2)(iii), (a)(4)(iii)(C), (b)(1)(iii), and (c)(3) are amended by removing the number "20" and inserting the number "18" in its place, and paragraph (b)(2) is removed.

14. In § 273.12, paragraphs (e) and (e)(1) are revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to the income eligibility standards, the shelter and dependent care deductions, the Thrifty Food Plan, and the standard deduction; annual and seasonal adjustments to Social Security, SSI, and other Federal benefits; periodic adjustments to AFDC or GA payments; and other changes in the eligibility criteria based on legislative or regulatory actions.

(1) *Federal adjustments to eligibility standards, allotments, and deductions, and State adjustments to utility standards.* (i) These adjustments shall go into effect for all households at a specific point in time. State agencies may wish to consider timing the annual adjustments of their utility standards to coincide with the Federal shelter deduction adjustment, when such timing is permitted by § 273.9(d)(8).

(A) Adjustments in the Thrifty Food Plan shall be effective in accordance with § 273.10(e)(4)(ii).

(B) Adjustments in the standard deduction shall be effective in accordance with § 273.9(d)(7).

(C) Adjustments in the shelter/dependent care deduction shall be effective in accordance with § 273.9(d)(8).

(D) Adjustments in the income eligibility standards shall be effective in accordance with § 273.9(a)(3).

* * * * *

§ 273.13 [Amended]

15. In § 273.13, paragraph (b)(8) is removed; and paragraphs (b) (9), (10), (11), and (12) are redesignated as paragraphs (b) (8), (9), (10), and (11), respectively.

PART 274—ISSUANCE AND USE OF FOOD COUPONS

16. In § 274.2, paragraph (h) is revised as follows:

§ 274.2 Issuance systems.

* * * * *

(h) *Issuance of coupons to households.* The State agency shall issue coupon books in accordance with a table for coupon book issuance provided by FNS, except as provided in paragraphs (h)(1), (h)(2), and (h)(3) of this section. The table provides participants with an efficient and economical distribution of the available coupons and coupon book types and assists FNS in maintaining proper inventory levels. The State agency shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number in each coupon book denomination. The household member whose names appears on the ID card shall sign the coupon books.

(1) The State agency may deviate from the table if the specified coupon books are unavailable.

(2) Exceptions from the table are authorized for blind and visually handicapped participants who request that all coupons be of one demonination.

(3) If a household is eligible for an allotment of $1, $3, or $5, the State agency shall adjust those allotments to $2, $4 and $6, respectively.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

17. In Appendix A to Part 277, a new paragraph (14) is added to the end of paragraph (c) appearing in the section of the appendix entitled "Standards for Selected Items of Cost". The addition reads as follows:

Appendix A [Amended]

* * * * *

Standards for Selected Items of Cost.

* * * * *

(C) *Unallowable costs.* * * *

(14) Costs incurred as result of State agencies' outreach programs. This does not include cost associated with program information activities specified in § 272.6.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: September 1, 1981.

Mary Jarratt,

Assistant Secretary.

[FR Doc. 81-25916 Filed 9-3-81; 8:45 am]

BILLING CODE 3410-30-M

federal register

Friday
September 4, 1981

Part IX

Department of Labor

Employment and Training Administration

Comprehensive Employment and Training Act (CETA) Regulations; Governors Special Grant Programs Under Title II and Youth Programs Under Title IV: Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 675, 676, 677 and 680

Comprehensive Employment and Training Act (CETA) Regulations; Governors Special Grant Programs Under Title II and Youth Programs Under Title IV

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains several amendments to regulations governing Governors Special Grant Programs under Title II and Youth Programs under Title IV of the Comprehensive Employment and Training Act (CETA). These amendments implement the CETA statutory amendments in the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981).

DATE: Effective October 1, 1981.

Although these regulations are being published in final form to implement the Congressional intent that they be in place by the beginning of fiscal year 1982, it is the policy of the Department of Labor to solicit and consider comments on all regulations. Accordingly, comments will be received until November 1, 1981, after which the comments will be evaluated and if warranted, the regulations will be amended.

ADDRESS: Comments should be addressed to Mr. Jess C. Ramaker, Acting Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Jess C. Ramaker, Telephone: (202) 376–6254.

SUPPLEMENTARY INFORMATION:

Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981) authorized spending levels for CETA for fiscal year 1982 and made several technical amendments to Titles II and IV. These include adding a new subsection (h) to section 202 which reduces the percentage of funds available for Special Grants to Governors from 12 percent to 10.5 percent, with the Governors given discretion in how to allocate the cut among the four Special Grant activities; repealing the provision in Section 436(a)(2) which required that Title II services to youth not be reduced because of the availability of financial assistance under Title IV–A; providing for a 20 percent transferability of funds between youth programs under Title IV–A and Summer Youth Employment Programs (SYEP) under Title IV–C; allowing Youth Community Conservation and Improvement Project (YCCIP) funds reallocated by the Secretary to be used for Youth Employment and Training (YETP) programs, with the intent of providing flexibility to prime sponsors while permitting continued funding of successful YCCIP projects.

The following provides a brief summary of each of the regulatory amendments which implement these changes in the statute:

Section 676.40–2 is amended by deleting the reference to YCCIP in order to simplify administration of the transferability provisions.

Section 677.15(b)(3)(ii) is amended by deleting the description in the Title II–B/C Annual Plan Subpart of arrangements to ensure that YCCIP and YETP funds will not be used to replace opportunities available under Title II for eligible youth.

Section 677.32 is amended by adding the words "Up to" at the beginning of each existing paragraph and adding a new paragraph that establishes a reduced funding limitation of 10.5 percent and gives the Governor the flexibility to allocate the cut among the four Special Grant activities in § 677.32 (a), (b), (c) and (d).

Sections 680.3 and 680.202 are amended to provide for 20 percent transferability of funds between YETP and SYEP.

Section 680.4 is amended to delete the prohibition against substituting Title IV–A funds for Title II–B/C funds for youth.

Sections 680.13 and 680.119, "Substitution for Title II programs," are deleted and the sections reserved. The Table of Contents at § 675.3 and Part 680 is amended accordingly.

Section 680.102 is amended by providing prime sponsors flexibility in reallocating their YCCIP funds for YETP.

Sections 676.40–2 and 680.113 are amended to make the administrative cost pool contribution limitation for YCCIP compatible with the contribution limitation for YETP and to allow prime sponsors to negotiate with project applicants the percentage of YCCIP administrative costs to be used for project administration; and to change the reference from "YCCIP Annual Plan Subpart" to "narrative for YCCIP activities."

Section 680.121 is amended to permit prime sponsors to use funds reallocated by the Secretary to be allocated for YETP.

The Secretary has certified, pursuant to 5 U.S.C. 605(b), that the amendments in this document will not have a significant economic impact on a substantial number of small entities. The regulations are related to the conditions of federal grants received by state and local governments with populations of more than 100,000 persons, who are the primary recipients of CETA funds. They have no impact on "small entities," or specifically "small governmental entities," as those terms are defined in 5 U.S.C. 601(b).

The Secretary has also determined, in accordance with Executive Order 12291, that the rule does not constitute a major rule requiring the preparation of a regulatory impact analysis. The regulation is not likely to result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment and innovation.

The Department of Labor's regulation at 29 CFR 2.7 states that it is DOL policy to use proposed rulemaking procedures when issuing regulations for grant programs. The Secretary, however, in signing this document is waiving the regulation at 29 CFR 2.7 for the following reasons:

(1) The regulations implement the CETA statutory changes contained in the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, August 13, 1981). This document merely conforms the regulations to the revised statute.

(2) Congress has directed the Department to expedite rulemaking procedures to ensure that final rules are in place by October 1, 1981.

The Department, nonetheless, is requesting comments on these final rules. Such comments will be received until November 1, 1981. The comments will then be evaluated and, if warranted, the regulations will be amended.

The programs for which these amendments are promulgated are listed in the Catalog of Federal Domestic Assistance as No. 17.232 "Comprehensive Employment and Training Programs."

Accordingly, the regulations at Parts 675, 676, 677 and 680 of Title 20 of the Code of Federal Regulations are amended as set forth below:

PART 675—INTRODUCTION TO THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Secton 675.3, Table of Contents, is amended by removing and reserving §§ 680.13 and 680.119, and by revising the headings of §§680.3 and 680.202 to read "Allocation and Transfer of Funds."

PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Section 676.40–2 is amended by removing the references to the "Youth Community Conservation and Improvement Projects." Accordingly § 676.40–2(a) is revised to read as follows:

§ 676.40–2 Administration and travel costs.

(a) The adminstrative cost contribution shall not exceed 20 percent of the total allocation for each Annual Plan Subpart other than Title II D, and the Special Governor's Grant unless the Program Narrative Description set forth an explanation of how all administrative costs have been determined and a detailed documentation to support that amount. The restriction on the contribution of funds to the Administrative Annual Plan Subpart for Title II D and Title VI programs is set forth in § 677.58(a) and § 678.8(b)(1)(iii). Administrative cost contribution limitations for Title VII programs are found in Part 679 and for Special Governor's Grant programs in Part 677 Subpart D.

* * * * *

PART 677—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

3. Section 677.15 is amended by removing paragraph (b)(3)(ii) and by renumbering paragraph (b)(3)(iii) as (b)(3)(ii).

4. Section 677.32 is amended by adding the words "Up to" at the beginning of paragraphs (a), (b), (c), and (d) and by adding a new paragraph (e). Accordingly, § 677.32 is revised to read as follows:

§ 677.32 Allocation of funds.

(a) Up to an amount equal to 6 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for supplemental vocational assistance in the State, as described in sec. 202(b) of the Act.

(b) Up to an amount equal to 1 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for costs of the State Employment and Training Council provided for in sec. 202(c) of the Act.

(c) Up to an amount equal to 1 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for coordination and establishment of linkages with educational agencies as provided in sec. 202(d) of the Act.

(d) Up to an amount equal to 4 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for coordination and special services as provided for in sec. 202(e) of the Act.

(e) The total of the four Special Grant functions authorized in paragraphs (a) through (d) above shall not exceed an amount equal to 10.5 percent of the funds available for Parts A, B, and C of Title II.

PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

5. The Table of Contents of Part 680 is amended by removing and reserving §§ 680.13 and 680.119, and by revising the headings of §§ 680.3 and 680.202 to read "Allocation and Transfer of Funds."

6. Section 680.3 is amended by adding the words "and transfer" to the heading, lettering the existing paragraph as (a), and adding a new paragraph (b) as follows. Accordingly § 680.3 is revised to read as follows:

§ 680.3 Allocation and transfer of funds.

(a) Allocation of funds under YETP shall be in accordance with section 433 of the Act.

(b) Of the funds allocated to prime sponsors under this subpart, not more than 20 percent of such funds may, at the prime sponsor's discretion, be transferred to programs funded under Subpart C of this Part. The provisions of Subpart C of this Part shall apply to such transferred funds.

7. Section 680.4(a)(1) is amended by removing the phrase "but opportunities for youth under Title II shall not be reduced because of the availability of YETP funds (section 436(a));" and inserting a period at the end of the remaining text. Accordingly § 680.4(a)(1) is revised to read as follows:

§ 680.4 Programs planning, planning and youth councils.

(a) * * *

(1) Coordinate the YETP subpart with programs and activities described in the annual plan subpart for Title II.

* * * * *

8. Section 680.13 is removed and reserved.

§ 680.13 [Reserved].

9. Section 680.102 is amended by adding a new paragraph (c) to read as follows:

§ 680.102 Allocation of funds.

* * * * *

(c) Funds available to prime sponsors under this subpart may be used in all or in part at the prime sponsor's discretion, for programs funded under Subpart A of this Part. The provisions of Subpart A of this Part shall apply to YCCIP funds used for YETP activities.

10. Section 680.113 is amended by revising paragraph (a); removing in paragraph (b)(1) the reference to "YCCIP annual plan subpart," and substituting the words "narrative for YCCIP activities"; removing paragraph (b)(2); and renumbering paragraph (b)(3) as paragraph (b)(2). Accordingly § 680.113 is revised to read as follows:

§ 680.113 Limitation on use of funds.

(a) *Administrative costs.* Prime Sponsors shall negotiate with project applicants a percentage of YCCIP administrative costs to be used for project administration.

(b) *Project funds.* Of the project funds:

(1) At least 65 percent of the funds available shall be used for participant wages and fringe benefits, unless adequate justification is provided in the prime sponsor's narrative for YCCIP activities.

(2) Any remaining funds may be used for project related training of participants, project supervisors, service to participants, and for the acquisition, lease, or rental of materials, equipment, and supplies.

11. Section 680.119 is removed and reserved.

§ 680.119 [Reserved].

12. Section 680.121 is amended by lettering the existing paragraph as (a) and adding a new paragraph (b) as follows. Accordingly § 680.121 is revised to read as follows:

§ 680.121 Reallocation procedures.

(a) The reallocation procedures under § 680.15(a) shall apply to YCCIP programs.

(b) Any funds reallocated by the Secretary pursuant to section 676.47 of this title may be allocated for programs funded under Subpart A of this Part.

13. Section 680.202 is amended by adding the words "and transfer" to the heading, lettering the existing paragraph as (a), and adding a new paragraph (b) as follows. Accordingly § 680.202 is revised to read as follows:

§ 680.202 Allocation and transfer of funds.

(a) Allocation of funds under SYEP shall be in accordance with section 483 of the Act.

(b) Of the funds allocated to prime sponsors under this subpart, not more than 20 percent of such funds may, at the prime sponsor's discretion, be transferred to programs funded under Subpart A of this Part. The provisions of Subpart A of this Part shall apply to such transferred funds.

(Pub. L. 97-35 and 29 U.S.C. 801 et seq.)

Signed at Washington, D.C. this 1st day of September 1981.

Raymond Donovan,

Secretary of Labor.

[FR Doc. 81-26080 Filed 9-3-81; 8:45 am]

BILLING CODE 4510-30-M

Reader Aids

Federal Register

Vol. 46, No. 172

Friday, September 4, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public briefings: "The Federal Register—What It Is and How To Use It"	523-5235
Public Inspection Desk	633-6930
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

43823-43952	1
43953-44146	2
44147-44414	3
44415-44732	4

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

5 CFR

Ch. I	44415
531	43823
771	44415

7 CFR

246	43823
301	44144
271	44712
272	44712
273	44712
274	44712
277	44712
800	43824
908	44147
910	44416
915	43953
981	43824
1079	43974
1135	44147
Proposed Rules:	
101	44680
102	44680
103	44680
104	44680
106	44680
107	44680
108	44680
111	44680
210	44452
220	44452
226	44452
1001	43980
1006	43995
1011	43997
1012	43995
1013	43995
1701	44472
2852	43836, 43838, 44473

8 CFR

235	43826
236	43955
242	43955
251	43828

9 CFR

331	43827, 43956, 44417
381	43827

10 CFR

30	44418
31	44149
40	44418
70	44418
150	44149
800	44686
Proposed Rules:	
Ch. II	44192
35	43840
205	44696
590	44696

12 CFR

217	44420
701	43829, 44421, 44422

14 CFR

39	44153
71	44154-44157
91	44424
221a	43957
291	43958
296	43958
297	43959
298	43959
372	43959
374	43960
Proposed Rules:	
71	44193
75	44194

15 CFR

379	43961
399	43961
Proposed Rules:	
Ch. III	43842

16 CFR

13	43830, 43962

17 CFR

240	43962
Proposed Rules:	
201	44194
230	44194
240	44194

18 CFR

282	43830
Proposed Rules:	
271	43843-43847

19 CFR

Proposed Rules:	
24	44195
111	44195
141	44195

20 CFR

404	43963
675	44730
676	44730
677	44730
680	44730
Proposed Rules:	
214	43998
216	43998
232	43998
237	43998

21 CFR

135	44432
184	44434

193.....43964
452.....44442
520.....44443
522.....43831
558.....43832
680.....43832

24 CFR

201.....44444
203.....44157, 44444
205.....44444
207.....44157, 44444
213.....44444
220.....44157, 44444
221.....44444
232.....44444
234.....44444
235.....44444
236.....44444
241.....44444
242.....44444
244.....44444

27 CFR

Proposed Rules:
5.....44000
19.....44000
170.....44000
173.....44000
194.....44000
250.....44000
251.....44000

28 CFR

Proposed Rules:
31.....44408

29 CFR

2530.....43833
2573.....43965
Proposed Rules:
800.....43848
1620.....43848
2530.....43852

30 CFR

Proposed Rules:
920.....44475

32 CFR

212.....43965

33 CFR

Proposed Rules:
204.....44006

34 CFR

510.....44140
606.....43966

36 CFR

Proposed Rules:
296.....44007

40 CFR

50.....44159
51.....44159
52.....43968, 43970, 44172-44188, 44447, 44448
58.....44159
62.....43833
180.....43971
413.....43972
Proposed Rules:
52.....43855, 44476
65.....44196
80.....44477
163.....44197

41 CFR

101.....43973

43 CFR

2710.....44677
Public Land Orders:
1608 (Amended by by PLO 5979).....44188
5868 (Correctedd by PLO 5983).....44450
5979.....44188
5980.....43974
5981.....44189
5982.....44189
5983.....44450
Proposed Rules:
3200.....43950

45 CFR

1000.....44189
1005.....44189
1006.....44189
1012.....44189
1015.....44189
1026.....44189
1062.....44189
1063.....44189

46 CFR

536.....44190

47 CFR

73.....43975, 44190
Proposed Rules:
73.....44008-44012, 44478-44481

49 CFR

1033.....44190, 44450
1100.....44191
Proposed Rules:
100-199.....44197
173.....44198
395.....44198
571.....44202
1057.....44013
1310.....44482

50 CFR

14.....43834
23.....44460
227.....43976
661.....43977
Proposed Rules:
14.....43857
32.....43858
33.....43853
611.....44203
674.....44203

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSIS
DOT/FHWA	USDA/FSIS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/MA*	MSPB/OPM		DOT/MA*	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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: The Maritime Administration will begin Mon./Thurs. publication as of Oct. 1, 1981.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 26, 1981

Just Released

Code of Federal Regulations

Revised as of July 1, 1981

Quantity	Volume	Price	Amount
_____	Title 40—Protection of Environment (Parts 190 to 399)	$7.00	$_____

A Cumulative checklist of CFR issuances for 1981 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No._____

VISA*

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		